

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

Senate Bill 719

BY SENATORS CHAPMAN AND ROSE

[Reported March 14, 2025, from the Committee on
Health and Human Resources]

1 A BILL to amend and reenact §16-4-10, §16-30-3, §16-30C-6, §60-6-23, and §60A-5-504 of the
2 Code of West Virginia, 1931, as amended; and to amend the code by adding a new
3 section, designated §16-30-26, relating to the age at which a minor can consent to certain
4 medical decisions and services; changing the age a minor can consent to sexually
5 transmitted disease care with notice; removing the definition of “mature minor” from the
6 code; adding when a minor can consent to general health services for himself or herself
7 with notice; detailing when notice is not required; removing the ability of a mature minor to
8 consent to a do-not-resuscitate order by himself or herself; changing the age a minor can
9 consent to alcohol addiction care with notice; and changing the age a minor can consent
10 to controlled substance addiction care with notice.

Be it enacted by the Legislature of West Virginia:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 4. SEXUALLY TRANSMITTED DISEASES.

§16-4-10. Minors.

1 ~~Notwithstanding any other provision of law~~ In accordance with §16-30-26 of this code, any
2 licensed physician may examine, diagnose, or treat any minor who has reached the age of 16
3 years with his or her consent for any venereal disease: Provided, That the health care provider
4 shall provide the minor's parent, guardian, foster parent, or kinship placements with actual notice
5 of the health care services to be rendered. ~~without the knowledge or consent of the minor's parent~~
6 ~~or guardian.~~ Actual notice is not required if any provision of §16-30-26(b) is met. The physician
7 shall not incur any civil or criminal liability in connection therewith except for negligence or ~~willful~~
8 willful injury.

ARTICLE 30. WEST VIRGINIA HEALTH CARE DECISIONS ACT.

§16-30-3. Definitions.

1 For the purposes of this article:

"Actual knowledge" means the possession of information of the person's wishes communicated to the health care provider orally or in writing by the person, the person's medical power of attorney representative, the person's health care surrogate, or other individuals resulting in the health care provider's personal cognizance of these wishes. Constructive notice and other forms of imputed knowledge are not actual knowledge.

"Adult" means a person who is 18 years of age or older, or an emancipated minor who has been established as such pursuant to the provisions of §49-4-115 of this code, ~~or a mature minor.~~

"Advanced nurse practitioner" means a registered nurse with substantial theoretical knowledge in a specialized area of nursing practice and proficient clinical utilization of the knowledge in implementing the nursing process, and who has met the further requirements of the West Virginia Board of Examiners for Registered Professional Nurses rule, advanced practice registered nurse, 19 CSR 7, who has a mutually agreed upon association in writing with a physician, and has been selected by or assigned to the person and has primary responsibility for treatment and care of the person.

"Attending physician" means the physician selected by or assigned to the person who has primary responsibility for treatment and care of the person and who is a licensed physician. If more than one physician shares that responsibility, any of those physicians may act as the attending physician under this article.

"Capable adult" means an adult who is physically and mentally capable of making health care decisions and who is not considered a protected person pursuant to chapter 44A of this code.

"Close friend" means any adult who has exhibited significant care and concern for an incapacitated person who is willing and able to become involved in the incapacitated person's health care and who has maintained regular contact with the incapacitated person so as to be familiar with his or her activities, health, and religious and moral beliefs.

"Death" means a finding made in accordance with accepted medical standards of either:
(1) The irreversible cessation of circulatory and respiratory functions; or (2) the irreversible cessation of all functions of the entire brain, including the brain stem.

"Guardian" means a person appointed by a court pursuant to chapter 44A of this code who is responsible for the personal affairs of a protected person and includes a limited guardian or a temporary guardian.

"Health care decision" means a decision to give, withhold, or withdraw informed consent to any type of health care, including, but not limited to, medical and surgical treatments, including life-prolonging interventions, psychiatric treatment, nursing care, hospitalization, treatment in a nursing home or other facility, home health care, and organ or tissue donation.

"Health care facility" means a facility commonly known by a wide variety of titles, including, but not limited to, hospital, psychiatric hospital, medical center, ambulatory health care facility, physicians' office and clinic, extended care facility operated in connection with a hospital, nursing home, a hospital extended care facility operated in connection with a rehabilitation center, hospice, home health care, or other facility established to administer health care in its ordinary course of business or practice.

"Health care provider" means any licensed physician, dentist, nurse, physician assistant, paramedic, psychologist, or other person providing medical, dental, nursing, psychological, or other health care services of any kind.

"Incapacity" means the inability because of physical or mental impairment to appreciate the nature and implications of a health care decision, to make an informed choice regarding the alternatives presented, and to communicate that choice in an unambiguous manner.

"Life-prolonging intervention" means any medical procedure or intervention that, when applied to a person, would serve to artificially prolong the dying process. Life-prolonging intervention includes, among other things, nutrition and hydration administered intravenously or through a feeding tube. The term "life-prolonging intervention" does not include the administration

of medication or the performance of any other medical procedure considered necessary to provide comfort or to alleviate pain.

"Living will" means a written, witnessed advance directive governing the withholding or withdrawing of life-prolonging intervention, voluntarily executed by a person in accordance with the requirements of §16-30-4 of this code.

~~"Mature minor" means a person, less than 18 years of age, who has been determined by a qualified physician, a qualified psychologist, or an advanced nurse practitioner to have the capacity to make health care decisions.~~

"Medical information" or "medical records" means and includes without restriction any information recorded in any form of medium that is created or received by a health care provider, health care facility, health plan, public health authority, employer, life insurer, school, or university or health care clearinghouse that relates to the past, present, or future physical or mental health of the person, the provision of health care to the person, or the past, present, or future payment for the provision of health care to the person.

"Medical power of attorney representative" or "representative" means a person, 18 years of age or older, appointed by another person to make health care decisions pursuant to §16-30-6 of this code or similar act of another state and recognized as valid under the laws of this state.

"Parent" means a person who is another person's natural or adoptive mother or father or who has been granted parental rights by valid court order and whose parental rights have not been terminated by a court of law.

"Person" means an individual, corporation, business trust, trust, partnership, association, government, governmental subdivision or agency, or any other legal entity.

"Portable orders for scope of treatment (POST) form" means a standardized form containing orders by a qualified physician, an advanced practice registered nurse, or a physician assistant that details a person's life-sustaining wishes as provided by §16-30-25 of this code.

"Principal" means a person who has executed a living will, medical power of attorney, or combined medical power of attorney and living will.

"Protected person" means an adult who, pursuant to chapter 44A of this code, has been found by a court, because of mental impairment, to be unable to receive and evaluate information effectively or to respond to people, events, and environments to an extent that the individual lacks the capacity to: (1) Meet the essential requirements for his or her health, care, safety, habilitation, or therapeutic needs without the assistance or protection of a guardian; or (2) manage property or financial affairs to provide for his or her support or for the support of legal dependents without the assistance or protection of a conservator.

"Qualified physician" means a physician licensed to practice medicine who has personally examined the person.

"Qualified psychologist" means a psychologist licensed to practice psychology who has personally examined the person.

"Surrogate decisionmaker" or "surrogate" means an individual 18 years of age or older who is reasonably available, to make health care decisions on behalf of an incapacitated person, possesses the capacity to make health care decisions, and is identified or selected by the attending physician or advanced nurse practitioner in accordance with the provisions of this article as the person who is to make those decisions in accordance with the provisions of this article.

"Terminal condition" means an incurable or irreversible condition as diagnosed by the attending physician or a qualified physician for which the administration of life-prolonging intervention will serve only to prolong the dying process.

§16-30-26. Minor's consent to health services.

(a) Any minor who has reached the age of 16 years may consent to general health services from a health care provider for himself or herself: *Provided*, That the health care provider shall provide the minor's parent, guardian, foster parent, or kinship placement with actual notice of the health care services to be rendered.

5 (b) Actual notice is not required if:

6 (1) There is a court order preventing the parent from making medical decisions for the
7 minor;

8 (2) The minor has graduated high school or equivalent;

9 (3) The minor is emancipated;

10 (4) The minor is married; or

11 (5) There is a pending criminal case against the parent or guardian for child abuse and
12 neglect, or child abuse or neglect as provided in §49-1-201 of this code.

ARTICLE 30C. DO NOT RESUSCITATE ACT.

§16-30C-6. Issuance of a do-not-resuscitate order; order to be written by a physician, a physician assistant, or an advanced practice registered nurse.

1 (a) An attending physician, a physician assistant, or an advanced practice registered nurse
2 may issue a do-not-resuscitate order for persons who are present in or residing at home or in a
3 health care facility if the person, representative, or surrogate has consented to the order. A do-
4 not-resuscitate order shall be issued in writing in the form as described in this section for a person
5 not present or residing in a health care facility. For persons present in health care facilities, a do-
6 not-resuscitate order shall be issued in accordance with the policies and procedures of the health
7 care facility or in accordance with the provisions of this article.

8 (b) Persons may request their physicians, physician assistants, or advanced practice
9 registered nurses to issue do-not-resuscitate orders for them.

10 (c) The representative or surrogate decisionmaker may consent to a do-not-resuscitate
11 order for a person with incapacity. A do-not-resuscitate order written by a physician, a physician
12 assistant, or an advanced practice registered nurse for a person with incapacity with the consent
13 of the representative or surrogate decisionmaker is valid and shall be respected by health care
14 providers.

(d) A parent may consent to a do-not-resuscitate order for his or her minor child, provided that a second physician, physician assistant, or advanced practice registered nurse who has examined the child concurs with the opinion of the attending physician, physician assistant, or advanced practice registered nurse that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards. ~~If the minor is between the ages of 16 and 18 and, in the opinion of the attending physician, physician's assistant, or advanced practice registered nurse the minor is of sufficient maturity to understand the nature and effect of a do-not-resuscitate order, then no such order shall be valid without the consent of such minor. In the event of a conflict between the wishes of the parents or guardians and the wishes of the mature minor, the wishes of the mature minor shall prevail. For purposes of this section, no minor less than 16 years of age shall be considered mature.~~ Nothing in this article shall be interpreted to conflict with the provisions of the Child Abuse Prevention and Treatment Act and implementing regulations at 45 CFR C.F.R. § 1340. In the event conflict is unavoidable, federal law and regulation shall govern.

(e) If a surrogate decisionmaker is not reasonably available or capable of making a decision regarding a do-not-resuscitate order, an attending physician, physician assistant, or advanced practice registered nurse may issue a do-not-resuscitate order for a person with incapacity in a health care facility: *Provided*, That a second physician who has personally examined the person concurs in the opinion of the attending physician, physician assistant, or advanced practice registered nurse that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(f) For persons not present or residing in a health care facility, the do-not-resuscitate order shall be noted on a physician, physician assistant, or advanced practice registered nurse orders for scope of treatment form or in the following form on a card suitable for carrying on the person:

Do-Not-Resuscitate Order

"As treating physician, physician assistant, or advanced practice registered nurse of _____ and a licensed physician, physician assistant, or advanced

practice registered nurse, I order that this person SHALL NOT BE RESUSCITATED in the event of cardiac or respiratory arrest. This order has been discussed with _____ or his/her representative _____ or his/her surrogate decisionmaker _____ who has given consent as evidenced by his/her signature below.

Provider Name

Provider Signature _____

Address _____

Person Signature _____

Address _____

Surrogate Decisionmaker Signature _____

Address _____".

(g) For persons residing in a health care facility, the do-not-resuscitate order shall be reflected in at least one of the following forms:

- (1) Forms required by the policies and procedures of the health care facility;
- (2) The do-not-resuscitate card as set forth in subsection (f) of this section; or
- (3) The physician, physician assistant, or advanced practice registered nurse orders for scope of treatment form.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 6. MISCELLANEOUS PROVISIONS.

§60-6-23. Treatment of minors for addiction to alcoholic liquor and beer.

~~Notwithstanding any other law to the contrary~~ In accordance with §16-30-26 of this code,
any licensed physician may examine, counsel, diagnose, and treat any minor who has reached

3 the age of 16 years at his or her request for any addiction to or dependency upon the use of
4 alcoholic liquor or nonintoxicating beer, as defined in §60-1-5: section five, article one of this
5 chapter. *Provided, That the health care provider shall provide the minor's parent, guardian, foster*
6 *parent, or kinship placement with actual notice of the health care services to be rendered. without*
7 *the knowledge or consent of the minor's parent or guardian. Actual notice is not required if any*
8 *provision of §16-30-26(b) is met.* Such physicians shall not incur any civil or criminal liability in
9 connection therewith except for negligence or willful injury.

CHAPTER 60A. UNIFORM CONTROLLED SUBSTANCES ACT.

ARTICLE 5. ENFORCEMENT AND ADMINISTRATIVE PROVISIONS.

§60A-5-504. Cooperative arrangements; confidentiality; treatment of minor without knowledge or consent of parent or guardian.

1 (a) The state Board of Pharmacy and the appropriate departments, boards, and agencies,
2 as specified in section 301, shall cooperate with federal and other state agencies in discharging
3 their responsibilities concerning traffic in controlled substances and in suppressing the abuse of
4 controlled substances. To this end, they may:

5 (1) Arrange for the exchange of information among governmental officials concerning the
6 use and abuse of controlled substances;

7 (2) Coordinate and cooperate in training programs concerning controlled substance law
8 enforcement at local and state levels;

9 (3) Cooperate with the bureau by establishing a centralized unit to accept, catalogue, file,
10 and collect statistics, including records of drug dependent persons and other controlled substance
11 law offenders within the state, and make the information available for federal, state, and local law-
12 enforcement purposes. They shall not furnish the name or identity of a patient or research subject
13 whose identity could not be obtained under subsection (c) of this section; and

(4) Conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted.

(b) Results, information, and evidence received from the bureau relating to the regulatory functions of this chapter, including results of inspections conducted by it may be relied and acted upon by the state Board of Pharmacy in the exercise of its regulatory functions under this chapter.

(c) A practitioner engaged in medical practice or research is not required or compelled to furnish the name or identity of a patient or research subject to the state Board of Pharmacy or to the appropriate department, board, or agency by which he or she is licensed or registered, as specified in section 301, nor may he or she be compelled in any state or local civil, criminal, administrative, legislative, or other proceedings to furnish the name or identity of an individual that the practitioner is obligated to keep confidential.

(d) No mental health organization or hospital shall be compelled in any state or local civil, criminal, administrative, legislative, or other proceeding to furnish the name or identity of any person voluntarily requesting treatment for or rehabilitation from addiction to or dependency upon the use of a controlled substance as defined in ~~article one of this chapter~~ §60A-1-1 et seq. of this code.

~~(e) Notwithstanding any other provision of law~~ In accordance with §16-30-26 of this code, any licensed physician or competent medically trained person under his or her direction may examine, diagnose, and treat any minor who has reached the age of 16 years at his or her request for any addiction to or dependency upon the use of a controlled substance as defined in ~~article one of this chapter~~ §60A-1-1 et seq. of this code: Provided, That the health care provider shall provide the minor's parent, guardian, foster parent, or kinship placement with actual notice of the health care services to be rendered. ~~without the knowledge or consent of the minor's parent or guardian.~~ Actual notice is not required if any provision of §16-30-26(b) is met. Such physician and such other persons shall not incur any civil or criminal liability in connection therewith except for negligence or willful injury.