

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 4083

By Delegates Coop-Gonzalez, Ridenour, McGeehan,
and Anders.

[Introduced January 14, 2026; referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §30-3-20 and §55-7B-4 of the Code of West Virginia, 1931, relating
 2 to clarifying parameters for medical malpractice civil actions.

Be it enacted by the Legislature of West Virginia:

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE	3.	WEST	VIRGINIA	MEDICAL	PRACTICE	ACT.
§30-3-20.			Prohibited			practice.

1 (a) For the purposes of this section:

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

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

6 (1) Gonadotropin-releasing hormone (GnRH) analogues or other puberty blocking
 7 medication to stop or delay normal puberty; and

8 (2) Supraphysiologic doses of testosterone, estrogen, or other androgens than would
 9 normally be produced endogenously in a healthy individual of the same age and sex.

10 "Gender reassignment surgery" means a surgical procedure performed for the purpose of
 11 assisting an individual with a gender transition, including any of the following:

12 (1) Penectomy, orchiectomy, vaginoplasty, clitoroplasty, vulvoplasty, hysterectomy, or
 13 ovariectomy;

14 (2) Metoidioplasty, phalloplasty, vaginectomy, scrotoplasty, or implantation of erection or
 15 testicular prostheses; and

16 (3) Augmentation mammoplasty, subcutaneous mastectomy, or any plastic, cosmetic, or
 17 aesthetic surgery that feminizes or masculinizes the facial or other body features of an individual.

18 "Gender transition" means the process in which a person goes from identifying with and
 19 living as a gender that corresponds to the person's sex to identifying with and living as a gender

different from the person's sex and may involve social, legal, or physical changes.

"Sex" means the state of being either male or female as observed or clinically verified at birth. There are only two sexes, and every individual is either male or female: *Provided*, That individuals with congenital and medically verifiable "DSD conditions" (sometimes referred to as "differences in sex development", "disorders in sex development", or "intersex conditions") are not members of a third sex and must be accommodated consistent with state and federal law.

(b) A physician may not provide gender reassignment surgery or gender altering medication to a person who is under 18 years of age.

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

(1) Services provided to an individual born with a medically verifiable disorder of sex development, including, but not limited to, a person with external sex characteristics that are irresolvably ambiguous, such as an individual born with 46 xx chromosomes with virilization, 46 xy chromosomes with undervirilization, or having both ovarian and testicular tissue;

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

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

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

(d) The provisions of this section are effective on January 1, 2024. The amendments made to this article during the 2025 regular session of the Legislature are effective on August 1, 2025.

(e) If a physician provides either gender reassignment surgery or gender altering

46 medication to a person who is under 18 years of age, the appropriate licensing board shall find the
47 physician in violation of this section and shall immediately revoke the license of the physician.

48 (f) A person may assert an actual or threatened violation of this section as a claim or
49 defense in a judicial or administrative proceeding and obtain compensatory damages, injunctive
50 relief, declaratory relief, reasonable attorneys' fees, and any other appropriate relief, including but
51 not limited to any costs incurred, directly or indirectly, for any subsequent procedures, therapies,
52 prescriptions, or other treatments related to the effects of the prior surgery or prescription. A
53 person shall bring a claim for a violation of this section not later than two years after the day the
54 cause of action accrues. A minor may bring an action before reaching 18 years of age through a
55 parent or guardian and may bring an action in the minor's own name upon reaching 18 years of
56 age at any time from that point until 20 years after. Inasmuch as the Legislature intends to make
57 unlawful the provision of gender reassignment surgery or gender altering medication to a minor, it
58 is the intent of the Legislature that this section be exempt from compliance with §55-7B-6 of this
59 code.

60 (g) The Attorney General may bring an action to enforce compliance with this section.
61 Nothing in this section shall be construed to deny, impair, or otherwise affect any right or authority
62 of the Attorney General, the state, or any agency, officer, or employee of the state to institute or
63 intervene in any proceeding.

64 (h) If any provision of this section, or the application thereof to any provision or
65 circumstance, shall be held unconstitutional or otherwise invalid, such invalidity or
66 unconstitutionality shall not affect the provisions or application of this section which can be given
67 effect without the unconstitutional or invalid provisions of application, and to this end the provisions
68 of this section are declared to be severable.

CHAPTER 55. ACTIONS, SUITS AND ARBITRATION; JUDICIAL SALE.

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

23 (c) A cause of action for injury to a minor, brought by or on behalf of a minor who was under
24 the age of 10 years at the time of such injury, shall be commenced within two years of the date of
25 such injury, or prior to the minor's 12th 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 prohibit a party from removing the action to federal court.

(f)(1) Unless the context requires otherwise, the definitions provided in §30-3-20 of this code apply in this subsection.

(2) Unless an action is brought pursuant to §30-3-20(f) of this code, a cause of action for medical injury to a person alleging professional injury against a health care provider under §55-7B-1 et seq. arising out of the performance of or failure to perform services while in the course of facilitating or perpetuating gender reassignment surgery, gender altering medication, or other gender transition services must be commenced within 20 years from the time of discovery by the injured party of both the injury and the causal relationship between the treatment and the injury. The provisions of this subdivision are intended to extend the statute of limitations for all such actions whether or not an earlier established period of limitations has expired.

(3) For a health care provider's liability arising out of the performance of or failure to perform services while in the course of facilitating or perpetuating gender reassignment surgery, gender altering medication, or other gender transition services, any purported waiver of such liability by an injured party shall be contrary to the public policy of this State, null and void, and unenforceable.

52 (4) It is the intent of the legislature that §55-7B-6 and §55-7B-8 of this code are not
53 applicable to causes of action for medical injury to a person alleging professional injury against a
54 health care provider under §55-7B-1 et seq. arising out of the performance of or failure to perform
55 services while in the course of facilitating or perpetuating gender reassignment surgery, gender
56 altering medication or other gender transition services.

57 (5) This section is effective when it becomes law and applies to causes of action accruing
58 on, after, or to the extent not otherwise prohibited by law, before that date. This subsection revives
59 any cause of action arising out of the performance of or failure to perform services while in the
60 course of facilitating or perpetuating gender reassignment surgery, gender altering medication or
61 other gender transition services otherwise time-barred under §55-7B-1 et seq., whether or not
62 such cause of action has been asserted in a pending civil action or appeal.

63 (6) If a provision of this subsection or its application to any person or circumstance is held
64 unconstitutional or otherwise invalid, such invalidity or unconstitutionality does not affect other
65 provisions or applications of the section that can be given effect without the unconstitutional or
66 invalid provision or application, and to this end the provisions of this act are severable.

NOTE: The purpose of this bill is to clarify parameters for medical malpractice civil actions.

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