

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

House Bill 4770

By Delegates Worrell and Hite

[Originating from the Committee on Health and
Human Resources; Reported on February 2, 2026]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding new sections, thereto
2 designated §5-16-15a, §33-15-4y, §33-16-3ii, §33-24-7z, §33-25-8w, §33-25A-8z;
3 designated §33-57-2, establishing limitations on the use of artificial intelligence to deliver
4 mental health care; providing exceptions; providing civil penalties; and providing
5 rulemaking.

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 A policy, plan, or contract that is issued or renewed on or after January 1, 2027, shall
2 comply with the provisions of §33-57-2, of this code.

CHAPTER 33. INSURANCE.

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

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

1 A policy, plan, or contract that is issued or renewed on or after January 1, 2027, shall
2 comply with the provisions of §33-57-2, of this code.

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

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

1 A policy, plan, or contract that is issued or renewed on or after January 1, 2027, shall
2 comply with the provisions of §33-57-2, of this code.

ARTICLE 24. HOSPITAL MEDICAL AND DENTAL CORPORATIONS.

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

1 A policy, plan, or contract that is issued or renewed on or after January 1, 2027, shall
2 comply with the provisions of §33-57-2, of this code.

ARTICLE 25. HEALTHCARE CORPORATION.

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

1 A policy, plan, or contract that is issued or renewed on or after January 1, 2027, shall
2 comply with the provisions of §33-57-2, of this code.

ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

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

1 A policy, plan, or contract that is issued or renewed on or after January 1, 2027, shall
2 comply with the provisions of §33-57-2, 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" or "AI" means a machine-based system that can, for a given set
3 of human-defined objectives, make predictions, recommendations, or decisions influencing real or
4 virtual environments, and that uses machine- and human-based inputs to perceive real and virtual
5 environments, abstract such perceptions into models through analysis in an automated manner,
6 and use model inference to formulate options for information or action.

7 (2) (A) "AI companion" means a system using artificial intelligence, generative artificial
8 intelligence, and/or emotional recognition algorithms designed to simulate a sustained human or
9 human-like relationship with a user by:

10 (i) Retaining information on prior interactions or user sessions and user preferences to
11 personalize the interaction and facilitate ongoing engagement with the AI companion;

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

response to a user prompt; and

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

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

(C) "AI companion" does not include:

(i) A system used by a business entity solely for customer service or to strictly provide users with information about available commercial services or products provided by such entity, customer service account information, or other information strictly related to its customer service;

(ii) A system that is primarily designed and marketed for providing efficiency improvements or, research or technical assistance; or

(iii) A system used by a business entity solely for internal purposes or employee productivity.

(3) "AI model" means a component of an information system that implements artificial intelligence and uses computational, statistical, or machine-learning techniques to produce outputs from a given set of inputs.

(4) "Consent" means clear, explicit affirmative act by a person that unambiguously communicates the individual's express, freely given, informed, voluntary, specific, and unambiguous written agreement, including a written agreement provided by electronic means, and (ii) is revocable by the individual. "Consent" does not include an agreement that is obtained by the following:

(i) The acceptance of a general or broad terms of use agreement or a similar document that contains descriptions of artificial intelligence along with other unrelated information;

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

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

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

general education, self-help, or wellness content related to mental or emotional well-being but does not diagnose, treat, or claim to treat a mental or behavioral health condition and is not represented as therapy or psychotherapy services.

(6) "Emotional recognition algorithms" means artificial intelligence that detects and interprets human emotional signals in text (using natural language processing and sentiment analysis), audio (using voice emotion AI), video (using facial movement analysis, gait analysis, or physiological signals), or a combination thereof.

(7) "Generative artificial intelligence" means a class of AI models that emulate the structure and characteristics of input data to generate derived synthetic content, including, but not limited to, images, videos, audio, text, and other digital content.

(8) "Licensed professional" means an individual who holds a valid license issued by this state to provide therapy or psychotherapy services, including:

(i) A licensed psychologist; §30-21-1 et seq.;

(ii) A licensed social worker; §30-30-1 et seq.;

(iii) A licensed professional counselor; and a licensed marriage and family therapist; §30-31-1 et seq.;

(iv) A drug abuse counselor authorized under §16B-13-2;

(v) A licensed advanced practice registered nurse;

(vi) A physician assistant; §30-3E-1 et seq.;

(vii) A licensed physician; §30-3-1 and §30-14-1 et seq; and

(viii) Any other professional authorized by this State to provide therapy or psychotherapy services.

(9) "Operator" means any person, partnership, association, firm, or business entity, or any member, affiliate, subsidiary or beneficial owner of any partnership, association, firm, or business entity who operates for or provides an AI companion to a user, and any insurer subject to §5-16-15 et. seq., §33-15-4 et. seq., §33-16-3 et. seq., §33-24-7 et. seq., §33-25-8 et seq., and §33-25A-8

et. seq. of this code.

(10) "Peer support" means services provided by individuals with lived experience of mental health conditions or recovery from substance use that are intended to offer encouragement, understanding, and guidance without clinical intervention.

(11) "Religious counseling" means counseling provided by clergy members, pastoral counselors, or other religious leaders acting within the scope of their religious duties if the services are explicitly faith-based and are not represented as clinical mental health services or therapy or psychotherapy services.

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

(13) "Therapeutic communication" means any verbal, non-verbal, or written interaction conducted in a clinical or professional setting that is intended to diagnose or treat an individual's mental, emotional, or behavioral health concerns, including but not limited to direct interactions with clients for the purpose of understanding or reflecting their thoughts, emotions, or experiences; providing guidance, therapeutic strategies, or interventions designed to achieve mental health outcomes; offering emotional support, reassurance, or empathy in response to psychological or emotional distress; collaborating with clients to develop or modify therapeutic goals or treatment plans; and offering behavioral feedback intended to promote psychological growth or address mental health conditions. Therapeutic communication does not include generic, non-individualized educational or wellness content that is not tailored to a specific person and does not purport to diagnose, treat, or respond to that person's individual mental or behavioral health condition.

(14) "Therapy or psychotherapy services" means services provided to diagnose or treat an individual's mental health or behavioral health. "Therapy or psychotherapy services" does not include religious counseling or peer support.

(b) An operator or licensed professional is permitted to use AI tools or systems to assist in providing administrative support or supplementary support in therapy or psychotherapy services

with the operator or licensed professional maintaining full responsibility for all interactions, outputs and data use associated with the system and satisfies the requirements of this article. A decision for patient care, reimbursement or claims adjudication may not be based exclusively on AI-generated information.

(c) An operator or licensed professional shall provide a clear and conspicuous notification to a user at the beginning of any AI companion interaction which need not exceed once per day and at least every three hours for continuing AI companion interactions which states either verbally or in writing that the user is not communicating with a human.

(d) No operator or licensed professional may be permitted to use artificial intelligence to assist in providing supplementary support in therapy or psychotherapy where the client's therapeutic session is recorded or transcribed unless:

(1) The patient or the patient's legally authorized representative is informed in writing of the following: that artificial intelligence will be used; and the specific purpose of the artificial intelligence tool or system that will be used; and

(2) The patient or the patient's legally authorized representative provides consent to the use of artificial intelligence.

(e) No operator or licensed professional may provide, advertise, or otherwise offer therapy or psychotherapy services, including through the use of Internet-based artificial intelligence, to the public in this state unless the therapy or psychotherapy services are conducted by an individual who is a licensed professional, and may not design, market or present any AI system that reasonably would cause a person to believe the AI system is a licensed professional or crisis service.

(f) Peer support services, religious counseling services and digital mental wellness services may not, through the use of artificial intelligence, diagnose, develop or modify treatment plans, conduct suicide or self-harm risk assessments, or otherwise provide therapy or psychotherapy services without the approval of a licensed professional.

117 (g) An operator or licensed professional may use artificial intelligence only to the extent the
118 use meets the requirements of subsection (b). A licensed professional may not allow artificial
119 intelligence to do any of the following:

120 (1) Make independent therapeutic decisions;

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

122 (3) Generate therapeutic recommendations or treatment plans without review and
123 approval by the licensed professional; or

124 (4) Detect emotions or mental states for the purpose of making diagnostic, therapeutic, or
125 treatment decisions, or for targeting or manipulating a person's mental or emotional state.

126 (h) An operator or licensed professional may use artificial intelligence solely to flag or triage
127 communications that may indicate self-harm, suicide risk, or other acute safety concerns, provided
128 that any such flags are promptly reviewed and addressed by a licensed professional who retains
129 sole authority for clinical assessment and decision-making.

130 (i) An operator or a licensed professional found in violation of this section shall pay a civil
131 penalty of an amount not to exceed \$10,000 per violation, as determined by the Offices of the
132 Insurance Commissioner.

133 (i) The Offices of the Insurance Commissioner may adopt rule to implement this section.

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.