

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 5476

By Delegates Flanigan, Martin, Butler, Pritt, Hott, Hite,
and Dean

[Introduced February 12, 2026; referred to the
Committee on Health and Human Resources then the
Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section,
 2 designated §16-29-4, relating to amendment to health care records; providing an individual
 3 an opportunity to examine health care records; creating a private cause of action for
 4 unauthorized alteration of health care records; establishing a rebuttable presumption that
 5 the lack of an audit trail means health care records were improperly altered; and prohibiting
 6 a health care provider from retaliating against an employee that reports tampering with
 7 health care records.

Be it enacted by the Legislature of West Virginia:

ARTICLE 29. HEALTH CARE RECORDS.
§16-29-4. Amendments to health care records.

- 1 (a) Amendments to health care records. –
 2 (1) A health care provider that maintains electronic or digital health care records shall
 3 preserve and maintain each entry in its original form, including an audit trail of any additions,
 4 deletion, or revisions to the health care record.
 5 (2) For amendments to health care records a health care provider must:
 6 (A) Retain the original entry or record in a visible and readable format;
 7 (B) Clearly indicate that the original entry has been amended;
 8 (C) Include the date and time the amendment was made;
 9 (D) Include the identity of the individual who made the amendment; and
 10 (E) Provide the reason for the amendment.
 11 (b) Examination by individual. –
 12 (1) Every individual may examine all health care records kept in that individual's name
 13 where the individual is or was hospitalized or treated: *Provided*, That if the individual is currently
 14 admitted to a health care facility, the individual shall not have the right to examine such health care
 15 records if:
 16 (A) The disclosure of health care records to the individual is determined, by the chief

17 medical officer, hospital administrator, or the individual's attending physician or psychologist, to be
18 detrimental to the individual's physical or mental health; and

19 (B) A notation to that effect is made in the individual's health care record.

20 (2) Each health care facility shall assist individuals in reviewing their own health care
21 records but may establish reasonable limitations, such as those relating to time, place, and
22 frequency, upon such review.

23 (c) Correction by individual. –

24 (1) Every individual currently or formerly admitted to a health care facility may request that
25 any inaccurate information found in the individual's health care records be corrected. A request
26 from an individual currently admitted to a health care facility shall be made in writing to the person
27 in charge of records at the health care facility or to another person designated by the health care
28 facility. That person will consult the appropriate staff at the health care facility if needed. If the
29 request is made orally to a staff member, that staff member will assist the individual in making the
30 request to the appropriate person.

31 (2) Upon receipt of a request for correction of the record of an individual currently or
32 formerly admitted to the health care facility, the person in charge of health care records at the
33 health care facility or the person so designated shall within five days:

34 (i) Make the requested correction, and provide the individual with a copy of the corrected
35 health care record; or

36 (ii) Notify the individual, in writing, of the inability to obtain amendment of the health care
37 record and the reasons therefor.

38 (3) If amendments are made to the health care records of an individual currently or formerly
39 admitted to a facility, they should be added to the record and the original health care record should
40 be preserved, pursuant to subsection (a).

41 (d) Private cause of action. – An individual whose medical records are altered or tampered
42 without justifiable cause may bring an action in the circuit court of the county in which the health

43 care provider is located, or the medical services were rendered to recover actual damages or
44 \$2,000, whichever is greater. The court may, in its discretion, provide such equitable relief it
45 considers necessary or proper. Any party to an action for damages under this subsection has the
46 right to demand a jury trial.

47 (e) *Rebuttable presumption.* – In any claim where it is alleged that a health care provider
48 improperly altered an individual's health care records the lack of an audit trail by the health care
49 facility creates a rebuttable presumption that any such alteration was improper.

50 (f) *Anti-retaliation.* – No health care provider may discharge, threaten, or otherwise
51 discriminate or retaliate against an employee by changing the employee's compensation, terms,
52 conditions, location, or privileges of employment because the employee has reported actual or
53 suspected tampering or unauthorized alterations of an individual's health care records.

NOTE: The purpose of this bill is to require health care providers to maintain a complete copy of an individual's health care records and to prevent unauthorized altering or tampering of health care records.

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