

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 5615

By Delegate Kump

[Introduced February 16, 2026; referred to the
Committee on Health and Human Resources]

1 A BILL to amend and reenact §30-1-26 and §30-3-13a of the Code of West Virginia, 1931, as
 2 amended, relating to removing in person requirements prior to initial telemedicine services
 3 and requirements for documentation and confidentiality.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF
 EXAMINATION OR REGISTRATION REFERRED TO IN CHAPTER.**

§30-1-26. Telehealth practice.

1 (a) For the purposes of this section:

2 "Abortifacient" means any chemical or drug prescribed or dispensed with the intent of
 3 causing an abortion.

4 "Established patient" means a patient who has received professional services, face-to-
 5 face, from the physician, qualified health care professional, or another physician or qualified health
 6 care professional of the exact same specialty and subspecialty who belongs to the same group
 7 practice, within the past three years.

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

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

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

14 "Health care practitioner" means a person authorized to practice under §30-3-1 *et seq.*,
 15 §30-3E-1 *et seq.*, §30-4-1 *et seq.*, §30-5-1 *et seq.*, §30-7-1 *et seq.*, §30-7A-1 *et seq.*, §30-8-1 *et*
 16 *seq.*, §30-10-1 *et seq.*, §30-14-1 *et seq.*, §30-16-1 *et seq.*, §30-20-1 *et seq.*, §30-20A-1 *et seq.*,
 17 §30-21-1 *et seq.*, §30-23-1 *et seq.*, §30-26-1 *et seq.*, §30-28-1 *et seq.*, §30-30-1 *et seq.*, §30-31-1
 18 *et seq.*, §30-32-1 *et seq.*, §30-34-1 *et seq.*, §30-35-1 *et seq.*, §30-36-1 *et seq.*, §30-37-1 *et seq.*

19 and any other person licensed under this chapter that provides health care services.

20 "Interstate telehealth services" means the provision of telehealth services to a patient
21 located in West Virginia by a health care practitioner located in any other state or commonwealth
22 of the United States.

23 "Registration" means an authorization to practice a health profession regulated by §30-1-1
24 *et seq.* of this code for the limited purpose of providing interstate telehealth services within the
25 registrant's scope of practice.

26 "Telehealth services" means the use of synchronous or asynchronous telecommunications
27 technology or audio only telephone calls by a health care practitioner to provide health care
28 services, including, but not limited to, assessment, diagnosis, consultation, treatment, and
29 monitoring of a patient; transfer of medical data; patient and professional health-related education;
30 public health services; and health administration. The term does not include internet
31 questionnaires, e-mail messages, or facsimile transmissions.

32 (b) Unless provided for by statute or legislative rule, a health care board, referred to in §30-
33 1-1 *et seq.* of this code, shall propose an emergency rule for legislative approval in accordance
34 with the provisions of §29A-3-15 *et seq.* of this code to regulate telehealth practice by a telehealth
35 practitioner. The proposed rule shall consist of the following:

36 (1) The practice of the health care service occurs where the patient is located at the time
37 the telehealth services are provided;

38 (2) The health care practitioner who practices telehealth shall be:

39 (A) Licensed in good standing in all states in which he or she is licensed and not currently
40 under investigation or subject to an administrative complaint; and

41 (B) Registered as an interstate telehealth practitioner with the appropriate board in West
42 Virginia;

43 (3) When the health care practitioner-patient relationship is established;

44 (4) The standard of care for the provision of telehealth services. ~~The standard of care shall~~

45 ~~require that with respect to the established patient, the patient shall visit an in-person health care~~
46 ~~practitioner within 12 months of using the initial telemedicine service or the telemedicine service~~
47 ~~shall no longer be available to the patient until an in-person visit is obtained. This requirement may~~
48 ~~be suspended, in the discretion of the health care practitioner, on a case-by-case basis, and it~~
49 ~~does not apply to the following services: Acute inpatient care, post-operative follow-up checks,~~
50 ~~behavioral medicine, addiction medicine, or palliative care;~~

51 (5) A prohibition of prescribing any controlled substance listed in Schedule II of the Uniform
52 Controlled Substance Act, unless authorized by another section: *Provided*, That the prescribing
53 limitations contained in this section do not apply to a physician or a member of the same group
54 practice with an established patient;

55 (6) Establish the conduct of a registrant for which discipline may be imposed by the board
56 of registration;

57 (7) Establish a fee, not to exceed the amount to be paid by a licensee, to be paid by the
58 interstate telehealth practitioner registered in the state;

59 (8) A reference to the board's discipline process;

60 (9) A prohibition of prescribing or dispensing an abortifacient; and

61 (10) A prohibition of prescribing or dispensing gender altering medication to a person who
62 is under 18 years of age.

63 (c) A registration issued pursuant to the provisions of or the requirements of this section
64 does not authorize a health care professional to practice from a physical location within this state
65 without first obtaining appropriate licensure.

66 (d) By registering to provide interstate telehealth services to patients in this state, a health
67 care practitioner is subject to:

68 (1) The laws regarding the profession in this state, including the state judicial system and
69 all professional conduct rules and standards incorporated into the health care practitioner's
70 practice act and the legislative rules of registering board; and

71 (2) The jurisdiction of the board with which he or she registers to provide interstate
72 telehealth services, including such board’s complaint, investigation, and hearing process.

73 (e) A health care professional who registers to provide interstate telehealth services
74 pursuant to the provisions of or the requirements of this section shall immediately notify the board
75 where he or she is registered in West Virginia and of any restrictions placed on the individual’s
76 license to practice in any state or jurisdiction.

77 (f) A person currently licensed in this state is not subject to registration but shall practice
78 telehealth in accordance with the provisions of this section and the rules promulgated thereunder.

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-13a. Telemedicine practice; requirements; exceptions; definitions; rule-making.

1 (a) *Definitions.* – For the purposes of this section:

2 (1) "Chronic nonmalignant pain" means pain that has persisted after reasonable medical
3 efforts have been made to relieve the pain or cure its cause and that has continued, either
4 continuously or episodically, for longer than three continuous months. "Chronic nonmalignant
5 pain" does not include pain associated with a terminal condition or illness or with a progressive
6 disease that, in the normal course of progression, may reasonably be expected to result in a
7 terminal condition or illness.

8 (2) "Physician" means a person licensed or registered by the West Virginia Board of
9 Medicine to practice allopathic medicine in West Virginia.

10 (3) "Store and forward telemedicine" means the asynchronous computer-based
11 communication of medical data or images from an originating location to a physician or podiatrist
12 at another site for the purpose of diagnostic or therapeutic assistance.

13 (4) "Telemedicine" means the practice of medicine using tools such as electronic
14 communication, information technology, store and forward telecommunication, audio only
15 telephone calls, or other means of interaction between a physician or podiatrist in one location and
16 a patient in another location, with or without an intervening health care provider.

17 (5) "Telemedicine technologies" means technologies and devices which enable secure
18 communications and information exchange in the practice of telemedicine, and typically involve
19 the application of secure real-time audio/video conferencing or similar secure video services,
20 remote monitoring or store and forward digital image technology, or audio only telephone calls to
21 provide or support health care delivery by replicating the interaction of a traditional in-person
22 encounter between a physician or podiatrist and a patient.

23 (b) *Licensure or registration.* –

24 (1) The practice of medicine occurs where the patient is located at the time the
25 telemedicine technologies are used.

26 (2) A physician or podiatrist who practices telemedicine must be licensed as provided in
27 this article or registered as provided in §30-1-1 *et seq.* of this code.

28 (3) This section does not apply to:

29 (A) An informal consultation or second opinion, at the request of a physician or podiatrist
30 who is licensed to practice medicine or podiatry in this state: *Provided*, That the physician or
31 podiatrist requesting the opinion retains authority and responsibility for the patient's care; and

32 (B) Furnishing of medical assistance by a physician or podiatrist in case of an emergency
33 or disaster, if no charge is made for the medical assistance.

34 (c) *Physician-patient or podiatrist-patient relationship through telemedicine encounter.* –

35 (1) A physician-patient or podiatrist-patient relationship may not be established through:

36 Text-based communications such as e-mail, Internet questionnaires, text-based
37 messaging, or other written forms of communication.

38 (2) If an existing physician-patient or podiatrist-patient relationship does not exist prior to
39 the utilization to telemedicine technologies, or if services are rendered solely through telemedicine
40 technologies, a physician-patient or podiatrist-patient relationship may only be established:

41 (A) Through the use of telemedicine technologies which incorporate interactive audio
42 using store and forward technology, real-time videoconferencing, or similar secure video services
43 during the initial physician-patient or podiatrist-patient encounter;

44 (B) For the practice of pathology and radiology, a physician-patient relationship may be
45 established through store and forward telemedicine or other similar technologies; or

46 (C) Through the use of audio-only calls or conversations that occur in real time. Patient
47 communication though audio-visual communication is preferable, if available or possible. Audio-
48 only calls or conversations that occur in real time may be used to establish the physician-patient
49 relationship.

50 (3) Once a physician-patient or podiatrist-patient relationship has been established, either
51 through an in-person encounter or in accordance with subdivision (2) of this subsection, the
52 physician or podiatrist may utilize any telemedicine technology that meets the standard of care
53 and is appropriate for the patient presentation.

54 (d) *Telemedicine practice.* –

55 A physician or podiatrist using telemedicine technologies to practice medicine or podiatry
56 shall:

57 (1) Verify the identity and location of the patient;

58 (2) Provide the patient with confirmation of the identity and qualifications of the physician or
59 podiatrist;

60 (3) Provide the patient with the physical location and contact information of the physician;

61 (4) Establish or maintain a physician-patient or podiatrist-patient relationship that conforms
62 to the standard of care;

63 (5) Determine whether telemedicine technologies are appropriate for the patient
64 presentation for which the practice of medicine or podiatry is to be rendered;

65 (6) Obtain from the patient appropriate consent for the use of telemedicine technologies;

66 (7) Conduct all appropriate evaluations and history of the patient consistent with traditional
67 standards of care for the patient presentation;

68 (8) Create and maintain health care records for the patient which justify the course of
69 treatment and which verify compliance with the requirements of this section: Provided, That the
70 creation and maintenance of health care records for the patient must satisfy the legal requirements
71 for the jurisdiction where the physician or podiatrist's primary practice is physically located and
72 where the physician or podiatrist is primarily licensed; and

73 (9) The requirements of §30-3-13(a)(1) through §30-3-13(a)(8) of this code do not apply to
74 the practice of pathology or radiology medicine through store and forward telemedicine.

75 (e) *Standard of care.* –

76 The practice of medicine or podiatry provided via telemedicine technologies, including the
77 establishment of a physician-patient or podiatrist-patient relationship and issuing a prescription via
78 electronic means as part of a telemedicine encounter, are subject to the same standard of care,
79 professional practice requirements and scope of practice limitations as traditional in-person
80 physician-patient or podiatrist-patient encounters. Treatment, including issuing a prescription,
81 based solely on an online questionnaire, does not constitute an acceptable standard of care.

82 (f) *Patient records.* –

83 The patient record established during the use of telemedicine technologies shall be
84 accessible and documented for both the physician or podiatrist and the patient, consistent with the
85 laws and legislative rules governing patient health care records in the state where the doctor or
86 podiatrist is physically located and where the physician or podiatrist is primarily licensed to
87 practice medicine or podiatry. All laws governing the confidentiality of health care information and
88 governing patient access to medical records shall apply to records of practice of medicine or
89 podiatry provided through telemedicine technologies in the state where the doctor or podiatrist is
90 physically located and where the physician or podiatrist is primarily licensed to practice medicine
91 or podiatry. A physician or podiatrist solely providing services using telemedicine technologies

92 shall make documentation of the encounter easily available to the patient, and subject to the
93 patient's consent, to any identified care provider of the patient.

94 (g) *Prescribing limitations.* –

95 (1) A physician or podiatrist who practices medicine to a patient solely through the
96 utilization of telemedicine technologies may not prescribe to that patient any controlled
97 substances listed in Schedule II of the Uniform Controlled Substances Act: *Provided*, That the
98 prescribing limitations contained in this section do not apply to a physician or a member of the
99 same group practice with an established patient.

100 (2) The prescribing limitations in this subsection do not apply when a physician is providing
101 treatment to patients who are minors, or if 18 years of age or older, who are enrolled in a primary or
102 secondary education program and are diagnosed with intellectual or developmental disabilities,
103 neurological disease, Attention Deficit Disorder, Autism, or a traumatic brain injury in accordance
104 with guidelines as set forth by organizations such as the American Psychiatric Association, the
105 American Academy of Child and Adolescent Psychiatry, or the American Academy of Pediatrics.
106 The physician must maintain records supporting the diagnosis and the continued need of
107 treatment.

108 (3) The prescribing limitations in this subsection do not apply to a hospital, excluding the
109 emergency department, when a physician submits an order to dispense a controlled substance,
110 listed in Schedule II of the Uniform Controlled Substances Act, to a hospital patient for immediate
111 administration in a hospital.

112 (4) A physician or podiatrist may not prescribe any pain-relieving controlled substance
113 listed in Schedule II of the Uniform Controlled Substance Act as part of a course of treatment for
114 chronic nonmalignant pain solely based upon a telemedicine encounter: *Provided*, That the
115 prescribing limitations contained in this section do not apply to a physician or a member of the
116 same group practice with an established patient.

117 (5) A physician or health care provider may not prescribe any drug with the intent of
118 causing an abortion. The term "abortion" has the same meaning ascribed to it in §16-2F-2 of this
119 code.

120 (h) *Exceptions.* –

121 This article does not prohibit the use of audio-only or text-based communications by a
122 physician or podiatrist who is:

123 (1) Responding to a call for patients with whom a physician-patient or podiatrist-patient
124 relationship has been established through an in-person encounter by the physician or podiatrist;

125 (2) Providing cross coverage for a physician or podiatrist who has established a physician-
126 patient or podiatrist-patient relationship with the patient through an in-person encounter; or

127 (3) Providing medical assistance in the event of an emergency.

128 (i) *Rulemaking.* –

129 The West Virginia Board of Medicine and West Virginia Board of Osteopathic Medicine
130 may propose joint rules for legislative approval in accordance with §29A-3-1, of this code to
131 implement standards for and limitations upon the utilization of telemedicine technologies in the
132 practice of medicine and podiatry in this state.

133 (j) *Preserving traditional physician-patient or podiatrist-patient relationship.* –

134 Nothing in this section changes the rights, duties, privileges, responsibilities, and liabilities
135 incident to the physician-patient or podiatrist-patient relationship, nor is it meant or intended to
136 change in any way the personal character of the physician-patient or podiatrist-patient
137 relationship. This section does not alter the scope of practice of any health care provider or
138 authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized
139 by law.

NOTE: The purpose of this bill is to remove in person requirements prior to initial telemedicine services and set out the appropriate jurisdiction for documentation and confidentiality requirements.

Strike-throughs indicate language that would be stricken from a heading or the present law

and underscoring indicates new language that would be added.