

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **House Bill 4770**

By Delegates Worrell and Hite

[Introduced January 23, 2026; referred to the  
Committee on Health and Human Resources then  
Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto six new  
2 sections, designated §5-16-15a, §33-15-4y, §33-16-3ii, §33-24-7z, §33-25-8w, §33-25A-  
3 8z; amending and reenacting §5A-6-9; and adding new article, designated §33-57-2,  
4 establishing limitations on the use of artificial intelligence and artificial intelligence  
5 technology to deliver mental health care, with exceptions for administrative support  
6 functions.

*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 Notwithstanding any provision of this code to the contrary, a policy, plan, or contract that is  
2 issued or renewed on or after January 1, 2027, and that is subject to this article, shall comply with  
3 the provisions of §33-57-2, et. seq. of this code.

**CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.**

**ARTICLE 6. OFFICE OF TECHNOLOGY.**

**§5A-6-9. West Virginia Task Force on Artificial Intelligence.**

1 (a) As used in this Section, "Task Force" means the West Virginia Task Force on Artificial  
2 Intelligence established by this section.

3 (b) The West Virginia Task Force on Artificial Intelligence is created and shall be organized  
4 within the Office of the Governor.

5 (c) The Task Force shall be composed of the following members:

(1) One ex officio, non-voting member from the House of Delegates, appointed by the Speaker of the House of Delegates.

(2) One ex officio, non-voting member from the State Senate, appointed by the President of the Senate.

(3) The Chief Information Officer of the Office of Technology or his or her designee.

(4) The State Superintendent of Schools or his or her designee.

(5) The Chancellor of the West Virginia Higher Education Policy Commission or his or her designee.

(6) The Attorney General or his or her designee.

(7) The Secretary of the Department of Administration or his or her designee.

(8) The Secretary of the Department of Homeland Security or his or her designee.

(9) The Secretary of Health or his or her designee.

(10) One member representing the cybersecurity industry with experience relevant to the work of the Task Force, appointed by the Governor.

(11) One member representing the artificial intelligence industry with experience relevant to the work of the Task Force, appointed by the Governor.

(12) One member representing a statewide business association, appointed by the Governor.

(13) One member from the West Virginia Fusion Center.

(14) One member representing either the West Virginia University Health System or the Marshall Health Network, appointed by the Governor.

(15) One member representing health care practitioners, specifically licensed to provide mental health care in West Virginia with knowledge of the use of AI in clinical practice.

(d) The Governor shall designate the Chair of the Task Force.

(e) The responsibilities of the Task Force shall include, but not be limited to, the following:

(1) Recommending a definition of artificial intelligence as it pertains to its use in technology

for use in legislation;

(2) Determining the relevant state agency or agencies to develop and oversee artificial intelligence policy and implementation of that policy;

(3) Determining which public interest use cases exist or may exist for artificial intelligence;

(4) Developing best practices for public sector uses of artificial intelligence in the State;

(5) Recommending legislation to protect individual rights, civil liberties, health and consumer data as it relates to generative artificial intelligence;

(6) Recommending model policies for schools to address the use of artificial intelligence by students in the classroom;

(7) Determining and making recommendations regarding whether the Task Force should be extended to monitor, analyze, and make findings and recommendations to keep pace with changes in artificial intelligence technology and uses of the technology;

(8) Assessing the use of artificial intelligence in the workforce and its effect on employment levels, types of employment, and the deployment of workers;

(9) Taking an inventory of the current or proposed use of artificial intelligence within state agencies;

(10) Identify economic opportunities related to AI that the state may support or promote;

(11) Other topics related to artificial intelligence that may arise from testimony or reports to the Task Force submitted by its members, invited guests, or the public.

(f) The Office of Technology shall provide administrative and technical support to the Task Force.

(g) All initial appointments to the task force shall be made not later than 90 days after the effective date of this section. Any vacancy shall be filled by the appointing authority, as applicable, within 90 days of such vacancy arising.

(h) The Task Force shall hold its first meeting not later than 120 days after the effective date of this section and shall meet quarterly thereafter with options to either attend in-person or online.

(i) The Task Force shall submit an annual electronic report by July 1, to the House of Delegates, Senate, and the Governor and present the report to the Joint Committee on Government and Finance covering the Task Force's findings and recommendations related to the responsibilities under subsection (e) of this section.

(j) The Task Force shall terminate on July 1, 2027.

## **CHAPTER 33. INSURANCE.**

### **ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.**

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

Notwithstanding any provision of this code to the contrary, a policy, plan, or contract that is issued or renewed on or after January 1, 2027, and that is subject to this article, shall comply with the provisions of §33-57-2, et. seq. of this code.

### **ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.**

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

Notwithstanding any provision of this code to the contrary, a policy, plan, or contract that is issued or renewed on or after January 1, 2027, and that is subject to this article, shall comply with the provisions of §33-57-2, et. seq. of this code.

### **ARTICLE 24. HOSPITAL MEDICAL AND DENTAL CORPORATIONS.**

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

Notwithstanding any provision of this code to the contrary, a policy, plan, or contract that is issued or renewed on or after January 1, 2027, and that is subject to this article, shall comply with the provisions of §33-57-2, et. seq. of this code.

### **ARTICLE 25. HEALTHCARE CORPORATION.**

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

Notwithstanding any provision of this code to the contrary, a policy, plan, or contract that is issued or renewed on or after January 1, 2027, and that is subject to this article, shall comply with

3 the provisions of §33-57-2, et. seq. of this code.

## **ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.**

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

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

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

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

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

17 (i) Retaining information on prior interactions or user sessions and user preferences to

personalize the interaction and facilitate ongoing engagement with the AI companion;

(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" shall not include:

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

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

(5) "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 §33-25A8 et. seq. of this code.

(6) "Person" means any natural person.

(7) "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.

(7) "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.

(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 clinical psychologist;

(ii) A licensed clinical social worker;

(iii) A licensed social worker;

(iv) A licensed professional counselor;

(v) A licensed clinical professional counselor;

(vi) A licensed marriage and family therapist;

(vii) A certified alcohol and other drug counselor authorized to provide therapy or  
psychotherapy services;

(viii) A licensed advanced practice psychiatric nurse;

(ix) Physician; and

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

(9) "Therapeutic communication" means any verbal, non-verbal, or written interaction  
conducted in a clinical or professional setting that is intended to diagnose, treat, or address 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 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.

(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) "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.

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

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

(b) An operator or licensed professional is permitted to use artificial intelligence technology and 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; *Provided*, that no decision for patient care, reimbursement or claims adjudication shall 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 shall 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 shall 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 shall 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 as defined in this section.

(g) An operator or licensed professional may use artificial intelligence only to the extent the

122 use meets the requirements of subsection (b). A licensed professional may not allow artificial  
123 intelligence to do any of the following:

124 (1) Make independent therapeutic decisions;

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

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

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

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

134 (i) An operator employing AI in any capacity for the delivery of mental health services shall  
135 disclose the scope, purpose, and operational details of such AI systems to the Offices of the  
136 Insurance Commission and make summary reports available to the public. These reports must  
137 include:

138 (1) The role of AI in decision-making processes;

139 (2) Data on the performance and outcomes of AI-assisted services; and

140 (3) Evidence that human oversight has been consistently maintained.

141 (j) An operator or a licensed professional found in violation of this article shall pay a civil  
142 penalty of an amount not to exceed \$10,000 per violation, as determined by the Offices of the  
143 Insurance Commissioner.

144 (k) The Offices of the Insurance Commissioner shall adopt rule to implement this article.

145 (l) This article shall be effective January 1, 2027.

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.