

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

32 for use in legislation;

33 (2) Determining the relevant state agency or agencies to develop and oversee artificial

34 intelligence policy and implementation of that policy;

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

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

37 (5) Recommending legislation to protect individual rights, civil liberties, health and

38 consumer data as it relates to generative artificial intelligence;

39 (6) Recommending model policies for schools to address the use of artificial intelligence by

40 students in the classroom;

41 (7) Determining and making recommendations regarding whether the Task Force should

42 be extended to monitor, analyze, and make findings and recommendations to keep pace with

43 changes in artificial intelligence technology and uses of the technology;

44 (8) Assessing the use of artificial intelligence in the workforce and its effect on employment

45 levels, types of employment, and the deployment of workers;

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

47 agencies;

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

49 (11) Other topics related to artificial intelligence that may arise from testimony or reports to

50 the Task Force submitted by its members, invited guests, or the public.

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

52 Force.

53 (g) All initial appointments to the task force shall be made not later than 90 days after the

54 effective date of this section. Any vacancy shall be filled by the appointing authority, as applicable,

55 within 90 days of such vacancy arising.

56 (h) The Task Force shall hold its first meeting not later than 120 days after the effective date

57 of this section and shall meet quarterly thereafter with options to either attend in-person or online.

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

62 (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.

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 24. HOSPITAL MEDICAL AND DENTAL CORPORATIONS.

<u>§33-24-7z.</u>	<u>Artificial</u>	<u>Intelligence</u>	<u>Limitations.</u>
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, <i>et. seq.</i> of this code.		

ARTICLE 25. HEALTHCARE CORPORATION.

<u>§33-25-8w.</u>	<u>Artificial</u>	<u>Intelligence</u>	<u>Limitations.</u>
1		<u>Notwithstanding any provision of this code to the contrary, a policy, plan, or contract that is</u>	
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 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

<u>§33-25A-8z.</u>	<u>Artificial</u>	<u>Intelligence</u>	<u>Limitations.</u>
1	<u>Notwithstanding any provision of this code to the contrary, a policy, plan, or contract that is</u>		
2	<u>issued or renewed on or after January 1, 2027, and that is subject to this article, shall comply with</u>		
3	<u>the provisions of §33-57-2, et. seq. of this code.</u>		

ARTICLE 57. REQUIRED COVERAGE FOR HEALTH INSURANCE.

<u>§33-57-2.</u>	<u>Limitations</u>	<u>on</u>	<u>Artificial</u>	<u>Intelligence.</u>
1	<u>(a) The following terms are defined:</u>			
2	<u>(1) "Artificial intelligence", "artificial intelligence technology", or "AI" means a machine-</u>			
3	<u>based system that can, for a given set of human-defined objectives, make predictions,</u>			
4	<u>recommendations, or decisions influencing real or virtual environments, and that uses machine-</u>			
5	<u>and human-based inputs to perceive real and virtual environments, abstract such perceptions into</u>			
6	<u>models through analysis in an automated manner, and use model inference to formulate options</u>			
7	<u>for information or action.</u>			
8	<u>(2) "Generative artificial intelligence" means a class of AI models that emulate the structure</u>			
9	<u>and characteristics of input data to generate derived synthetic content, including, but not limited to,</u>			
10	<u>images, videos, audio, text, and other digital content.</u>			
11	<u>(3) "AI model" means a component of an information system that implements artificial</u>			
12	<u>intelligence technology and uses computational, statistical, or machine-learning techniques to</u>			
13	<u>produce outputs from a given set of inputs.</u>			
14	<u>(4) (A) "AI companion" means a system using artificial intelligence, generative artificial</u>			
15	<u>intelligence, and/or emotional recognition algorithms designed to simulate a sustained human or</u>			
16	<u>human-like relationship with a user by:</u>			
17	<u>(i) Retaining information on prior interactions or user sessions and user preferences to</u>			

18 personalize the interaction and facilitate ongoing engagement with the AI companion;
19 (ii) Asking unprompted or unsolicited emotion-based questions that go beyond a direct
20 response to a user prompt; and
21 (iii) Sustaining an ongoing dialogue concerning matters personal to the user.
22 (B) Human relationships include, but shall not be limited to, intimate, romantic or platonic
23 interactions or companionship.
24 (c) "AI companion" shall not include:
25 (i) Any system used by a business entity solely for customer service or to strictly provide
26 users with information about available commercial services or products provided by such entity,
27 customer service account information, or other information strictly related to its customer service;
28 (ii) Any system that is primarily designed and marketed for providing efficiency
29 improvements or, research or technical assistance; or
30 (iii) Any system used by a business entity solely for internal purposes or employee
31 productivity.
32 (5) "Operator" means any person, partnership, association, firm, or business entity, or any
33 member, affiliate, subsidiary or beneficial owner of any partnership, association, firm, or business
34 entity who operates for or provides an AI companion to a user, and any insurer subject to §5-16-15
35 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.
36 seq. of this code.
37 (6) "Person" means any natural person.
38 (7) "Consent" means clear, explicit affirmative act by a person that unambiguously
39 communicates the individual's express, freely given, informed, voluntary, specific, and
40 unambiguous written agreement, including a written agreement provided by electronic means,
41 and (ii) is revocable by the individual. "Consent" does not include an agreement that is obtained by
42 the following:
43 (i) The acceptance of a general or broad terms of use agreement or a similar document

44 that contains descriptions of artificial intelligence along with other unrelated information;

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

46 or;

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

48 (7) "Emotional recognition algorithms" means artificial intelligence that detects and

49 interprets human emotional signals in text (using natural language processing and sentiment

50 analysis), audio (using voice emotion AI), video (using facial movement analysis, gait analysis, or

51 physiological signals), or a combination thereof.

52 (8) "Licensed professional" means an individual who holds a valid license issued by this

53 State to provide therapy or psychotherapy services, including:

54 (i) A licensed clinical psychologist;

55 (ii) A licensed clinical social worker;

56 (iii) A licensed social worker;

57 (iv) A licensed professional counselor;

58 (v) A licensed clinical professional counselor;

59 (vi) A licensed marriage and family therapist;

60 (vii) A certified alcohol and other drug counselor authorized to provide therapy or

61 psychotherapy services;

62 (viii) A licensed advanced practice psychiatric nurse;

63 (ix) Physician; and

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

65 services.

66 (9) "Therapeutic communication" means any verbal, non-verbal, or written interaction

67 conducted in a clinical or professional setting that is intended to diagnose, treat, or address an

68 individual's mental, emotional, or behavioral health concerns, including but not limited to direct

69 interactions with clients for the purpose of understanding or reflecting their thoughts, emotions, or

70 experiences; providing guidance, therapeutic strategies, or interventions designed to achieve
71 mental health outcomes; offering emotional support, reassurance, or empathy in response to
72 psychological or emotional distress; collaborating with clients to develop or modify therapeutic
73 goals or treatment plans; and offering behavioral feedback intended to promote psychological
74 growth or address mental health conditions. Therapeutic communication does not does not
75 include generic, non-individualized educational or wellness content that is not tailored to a specific
76 person and does not purport to diagnose, treat, or respond to that person's individual mental or
77 behavioral health condition.

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

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

85 (12) "Digital mental wellness service" means a tool, application, or program that provides
86 general education, self-help, or wellness content related to mental or emotional well-being but
87 does not diagnose, treat, or claim to treat a mental or behavioral health condition and is not
88 represented as therapy or psychotherapy services.

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

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

93 (b) An operator or licensed professional is permitted to use artificial intelligence technology
94 and AI tools or systems to assist in providing administrative support or supplementary support in
95 therapy or psychotherapy services with the operator or licensed professional maintaining full

96 responsibility for all interactions, outputs and data use associated with the system and satisfies the
97 requirements of this article; *Provided*, that no decision for patient care, reimbursement or claims
98 adjudication shall be based exclusively on AI-generated information.

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

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

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

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

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

117 (f) Peer support services, religious counseling services and digital mental wellness
118 services shall not, through the use of artificial intelligence, diagnose, develop or modify treatment
119 plans, conduct suicide or self-harm risk assessments, or otherwise provide therapy or
120 psychotherapy services as defined in this section.

121 (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.