

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4884

By Delegate Pinson

[Introduced January 18, 2024; 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 thereto a new article,
 2 designated §16-1D-1, §16-1D-2, §16-1D-3, and §16-1D-4, all relating to creating a
 3 healthcare provider right to object to certain procedures act; definitions; treatments or
 4 patients that may be objected to; construction of article; right to file civil action for damages
 5 and injunctive relief; action by Attorney General

Be it enacted by the Legislature of West Virginia:

ARTICLE 1D. HEALTHCARE PROVIDER RIGHT TO OBJECT TO CERTAIN PROCEDURES ACT.

§16-1D-1. Definitions.

1 For the purposes of this article:

2 "Biological Sex" means the biological indication of male and female in the context of
 3 reproductive potential or capacity, such as sex chromosomes, naturally occurring sex hormones,
 4 gonads, and nonambiguous internal and external genitalia present at birth, without regard to an
 5 individual's psychological, chosen, or subjective experience or gender.

6 "Gender transition" means the process in which a person goes from identifying with and
 7 living as a gender that corresponds to the person's biological sex to identifying with and living as a
 8 gender different from the person biological sex and may involve social, legal, or physical changes.

9 "Healthcare provider" include, but is not limited to: any public or private hospital, outpatient
 10 center for primary care, medical center, physician organization, professional association,
 11 outpatient center for surgical services, private physician's office, pharmacy, long-term care facility,
 12 medical school, nursing school, medical training facility, or any other entity or location in which
 13 health care services are performed; as well as any physician, nurse practitioner, physician
 14 assistant, nurse, nurse aide, allied health professional, medical assistant, hospital employee,
 15 employee of an outpatient center for primary care, outpatient center for surgical services, or long-
 16 term care facility, pharmacist, pharmacy technician, pharmacy employee, medical school faculty

17 and student, nursing school faculty and student, psychology and counseling faculty and student,
 18 medical researcher, laboratory technician, counselor, social worker, or any other person who
 19 facilitates or participates in a health care service.

20 "Religious or conscientious objection" means the ethical, moral, or religious beliefs or
 21 principles held by a healthcare provider, or other person covered by this article. With respect to
 22 institutional or corporate persons, as opposed to individual persons, the term is determined by
 23 reference to that entity or body's governing documents, including but not limited to published
 24 ethical, moral, or religious guidelines or directives, mission statements, constitutions, articles of
 25 incorporation, bylaws, policies, or regulations.

§16-1D-2. Healthcare provider may object and refuse to participate in certain treatments.

1 (a) No healthcare provider, may be required to:

2 (1) Perform, assist, or participate in medical procedures, treatments, counseling,
 3 prescriptions or surgeries related to sex reassignment or gender identity transitioning, where to do
 4 so would be contrary to the person's religious or conscientious objection, or

5 (2) Accept a patient for purposes of medical procedures, treatments, counseling,
 6 prescriptions or surgeries related to sex reassignment or gender identity transitioning, where to do
 7 so would be contrary to the person's religious or conscientious objection.

8 (b) Refusal by a healthcare provider, to perform, assist, participate in, or accept a patient
 9 for purposes of, medical procedures, treatments, counseling, prescriptions or surgeries related to
 10 sex reassignment or gender identity transitioning, where to do so would be contrary to the person's
 11 religious or conscientious objection, is not grounds for civil liability. Nor is it a basis for disciplinary
 12 or other recriminatory action, including but not limited to adverse action related to, employment,
 13 promotion, advancement transfer, licensing, education, training, the granting of hospital privileges
 14 or staff appointments, or access to public benefits.

§16-1D-3. Construction of article.

1 This article may not be construed to allow the denial of visitation, recognition of a

2 designated representative for health care decision-making, or emergency medical treatment
3 necessary to cure an illness or injury as required by law, pursuant to the Emergency Medical
4 Treatment and Active Labor Act, 42 U.S.C. § 1395dd, in effect January 1, 2023.

§16-1D-4. Civil action for damages and injunctive relief; action by Attorney General.

1 (a) A civil action for compensatory damages, injunctive relief, or any other appropriate
2 relief may be brought by any healthcare provider injured by a violation of any provision of this
3 article. Additionally, the court shall award court costs and reasonable attorney fees to a prevailing
4 party who establishes a violation of this article.

5 (b) The Attorney General may bring an action to enforce compliance with this article.

NOTE: The purpose of this bill is to create a healthcare provider right to object to certain procedures act with definitions; defining treatments or patients that may be objected to; and providing right to file civil action for damages and injunctive relief and action by the Attorney General.

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