

Enrolled Version - Final Version

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Key: **Green** = existing Code. **Red** = new code to be enacted

WEST VIRGINIA LEGISLATURE
2023 REGULAR SESSION
ENROLLED
Committee Substitute
for
House Bill 2007

BY DELEGATES FOSTER, CHIARELLI, HORST, CLARK, DEVAULT, COOP-GONZALEZ, BROOKS, KIRBY, MAYNOR, ADKINS, AND
WARD

[Passed March 11, 2023; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated **§30-3-20**; and to amend said code by adding thereto a new section, designated **§30-14-17**, all relating to prohibiting certain medical practices; defining terms; prohibiting irreversible gender reassignment surgery to a minor; prohibiting the providing of gender altering medication to a minor; providing exceptions; establishing an internal effective date.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-20. Prohibited practice.

(a) For the purposes of this section:

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

"Gender" means the psychological, behavioral, social and cultural aspects of being male or female.

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

- (1) Puberty blocking medication to stop or delay normal puberty;
- (2) Supraphysiologic doses of testosterone or other androgens to females; and
- (3) Supraphysiologic doses of estrogen to males.

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

"Irreversible gender reassignment surgery" means a medical procedure performed for the purpose of assisting an individual with a gender transition, including any of the following:

- (1) Penectomy, orchiectomy, vaginoplasty, clitoroplasty, or vulvoplasty for biologically male patients or hysterectomy or ovariectomy for biologically female patients;
- (2) Metoidioplasty, phalloplasty, vaginectomy, scrotoplasty, or implantation of erection or testicular prostheses for biologically female patients; and
- (3) Augmentation mammoplasty for biological male patient and subcutaneous mastectomy for female patients.

(b) Except as otherwise provided in **§30-3-20(c)**, a physician may not provide irreversible gender reassignment surgery or gender altering medication to a person who is under eighteen years of age.

(c) A physician may provide any of the following to a person who is under 18 years of age:

(1) Services provided to an individual born with a medically verifiable disorder of sex development, including, but not limited to, a person with external biological sex characteristics that are irresolvably ambiguous, such as an individual born with forty-six xx chromosomes with virilization, forty-six xy chromosomes with undervirilization, or having both ovarian and testicular tissue;

(2) Services provided to an individual when a physician has otherwise diagnosed a disorder of sexual development and in which the physician has determined through genetic or biochemical testing that the individual does not have normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action;

(3) The treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by the performance of gender

transition procedures, whether or not these procedures were performed in accordance with state and federal law; and

(4) Any procedure undertaken because the individual suffers from a physical disorder, physical injury, or physical illness that would, as certified by a physician, place the person in imminent danger of death, or impairment of a major bodily function unless surgery is performed.

(5) Pubertal modulating and hormonal therapy for severe gender dysphoria if:

(A) The minor has been diagnosed as suffering from severe gender dysphoria by no fewer than two medical or mental health providers with at least one being a mental health provider or adolescent medicine specialist, and both having relevant training in the diagnosis and treatment of severe gender dysphoria in adolescents;

(B) The diagnosing medical professionals express in written opinions that treatment with pubertal modulating and hormonal therapy is medically necessary to treat the minor's psychiatric symptoms and limit self-harm, or the possibility of self-harm, by the minor;

(C) The minor, the minor's parents, legal guardians, or person or other persons charged with medical decision-making for the minor, and the minor's primary physician agree in writing with the treatment with pubertal modulating and hormonal therapy for the minor;

(D) Any use of gender altering medication is for purposes of pubertal modulating and hormonal therapy limited to the lowest titratable dosage necessary to treat the psychiatric condition and not for purposes of gender transition; and

(E) Notwithstanding the provisions of paragraphs (A) through (D) of this subdivision where the minor is prepubescent, hormonal treatment may not be provided;

(d) The provisions of this section are effective on January 1, 2024.

ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.

§30-14-17. Prohibited practice.

(a) For the purposes of this section:

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

"Gender" means the psychological, behavioral, social and cultural aspects of being male or female.

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

(1) Puberty blocking medication to stop or delay normal puberty;

(2) Supraphysiologic doses of testosterone or other androgens to females; and

(3) Supraphysiologic doses of estrogen to males.

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

"Irreversible gender reassignment surgery" means a medical procedure performed for the purpose of assisting an individual with a gender transition, including any of the following:

(1) Penectomy, orchiectomy, vaginoplasty, clitoroplasty, or vulvoplasty for biologically male patients or hysterectomy or ovariectomy for biologically female patients;

(2) Metoidioplasty, phalloplasty, vaginectomy, scrotoplasty, or implantation of erection or testicular prostheses for biologically female patients; and

- (3) Augmentation mammoplasty for biological male patient and subcutaneous mastectomy for female patients.
- (b) Except as otherwise provided in **§30-14-17(c)**, a physician may not provide irreversible gender reassignment surgery or gender altering medication to a person who is under eighteen years of age.
- (c) A physician may provide any of the following to a person who is under 18 years of age:
- (1) Services provided to an individual born with a medically verifiable disorder of sex development, including, but not limited to, a person with external biological sex characteristics that are irresolvably ambiguous, such as an individual born with forty-six xx chromosomes with virilization, forty-six xy chromosomes with undervirilization, or having both ovarian and testicular tissue;
 - (2) Services provided to an individual when a physician has otherwise diagnosed a disorder of sexual development and in which the physician has determined through genetic or biochemical testing that the individual does not have normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action;
 - (3) The treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by the performance of gender transition procedures, whether or not these procedures were performed in accordance with state and federal law; and
 - (4) Any procedure undertaken because the individual suffers from a physical disorder, physical injury, or physical illness that would, as certified by a physician, place the person in imminent danger of death, or impairment of a major bodily function unless surgery is performed.
 - (5) Pubertal modulating and hormonal therapy for severe gender dysphoria if:
 - (A) The minor has been diagnosed as suffering from severe gender dysphoria by no fewer than two medical or mental health providers with at least one being a mental health provider or adolescent medicine specialist and both having relevant training in the diagnosis and treatment of severe gender dysphoria in adolescents;
 - (B) The diagnosing medical professionals express in written opinions that treatment with pubertal modulating and hormonal therapy is medically necessary to treat the minor's psychiatric symptoms and limit self-harm, or the possibility of self-harm, by the minor;
 - (C) The minor, the minor's parents, legal guardians, or person or persons charged with medical decision-making for the minor and the minor's primary physician agree in writing with the treatment with gender altering medication for the minor;
 - (D) Any use of gender altering medication is for purposes of pubertal modulating and hormonal therapy and is limited to the lowest titratable dosage necessary to treat the psychiatric condition and not for purposes of gender transition; and
 - (E) Notwithstanding the provisions of paragraphs (A) through (D) of this subdivision where the minor is prepubescent, hormonal treatment may not be provided.
- (d) The provisions of this section are effective on January 1, 2024.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the House of Delegates

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Clerk of the Senate

Originated in the House of Delegates.

In effect ninety days from passage.

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Speaker of the House of Delegates

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President of the Senate

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Day of, 2023.

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Governor