WEST VIRGINIA CODE: §55-7B-4

§55-7B-4. Health care injuries; limitations of actions; exceptions; venue.

(a) A cause of action for medical injury to a person alleging medical professional liability against a health care provider, except a nursing home, assisted living facility, their related entities or employees, or a distinct part of an acute care hospital providing intermediate care or skilled nursing care or its employees, arises as of the date of medical injury, except as provided in subsection (c) of this section, and must be commenced within two years of the date of such injury or death, or within two years of the date when such person discovers, or with the exercise of reasonable diligence, should have discovered such medical injury, whichever last occurs: *Provided*, That in no event shall any such action be commenced more than 10 years after the date of medical injury.

(b) A cause of action for medical injury to a person alleging medical professional liability against a nursing home, assisted living facility, their related entities or employees, or a distinct part of an acute care hospital providing intermediate care or skilled nursing care or its employees arises as of the date of medical injury, except as provided in subsection (c) of this section, and must be commenced within one year of the date of such medical injury, or within one year of the date when such person discovers, or with the exercise of reasonable diligence, should have discovered such injury or death, whichever last occurs: *Provided*, That in no event shall any such action be commenced more than 10 years after the date of medical injury. With the amendments to this subsection enacted in the regular session of the Legislature, 2022, that intends to reinstate and codify a one-year statute of limitations for any cause of action for medical injury resulting in injury or death to a person alleging medical professional liability against a nursing home, assisted living facility, their related entities or employees or a distinct part of an acute care hospital providing intermediate care or skilled nursing care or its employees.

(c) A cause of action for injury to a minor, brought by or on behalf of a minor who was under the age of 10 years at the time of such injury, shall be commenced within two years of the date of such injury, or prior to the minor's 12th birthday, whichever provides the longer period.

(d) The periods of limitation set forth in this section shall be tolled for any period during which the health care provider or its representative has committed fraud or collusion by concealing or misrepresenting material facts about the injury.

(e) Any medical professional liability action against a nursing home, assisted living facility, related entity or employee, or a distinct part of an acute care hospital providing intermediate care or skilled nursing care or its employees shall be brought in the circuit court of the county in which the nursing home, assisted living facility, or acute care hospital providing intermediate care or skilled nursing care, at which the alleged act of medical professional liability occurred is located, unless otherwise agreed upon by the nursing home, assisted

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living facility, related entity, or a distinct part of an acute care hospital providing intermediate care or skilled nursing care, and the plaintiff. Nothing in this subsection shall prohibit a party from removing the action to federal court.

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