

# **WEST VIRGINIA LEGISLATURE**

**2026 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 5527**

BY DELEGATES KYLE AND HITE

[Passed March 14, 2026; in effect 90 days from  
passage (June 12, 2026)]



1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding a new article,  
2 designated §33-64-1, §33-64-2, §33-64-3, §33-64-4, §33-64-5, §33-64-6, and §33-64-7,  
3 relating to the authorization of wellness reimbursement plans that are self-insured medical  
4 plans or wellness integrated medical plan expense reimbursement plans to be licensed in  
5 this state by the Insurance Commissioner and subject to state and federal laws; providing  
6 definitions; requiring licensure of wellness reimbursement program administrators;  
7 providing requirements for licensure; providing for revocation or suspension of licenses,  
8 civil penalties and criminal penalties; requiring administrator defense of employers and  
9 their employees against any and all claims or suits in certain circumstances; providing  
10 duties of brokers; authorizing proposal of legislative rules; providing that provisions do not  
11 apply to individual or group health plans; and reporting to the Legislature.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 64. WELLNESS REIMBURSEMENT PLANS.**

### **§33-64-1. Definitions.**

1 As used in this article:  
2 "Broker" means an independent health insurance agent licensed in this state.  
3 "Commissioner" means the Insurance Commissioner of West Virginia.  
4 "Person" means a natural person, corporation, mutual company, unincorporated  
5 association, partnership, joint venture, limited liability company, trust, estate, foundation, not-for-  
6 profit corporation, unincorporated organization, government, or governmental subdivision or  
7 agency.  
8 "Wellness reimbursement program, arrangement, or benefit plan" means a plan offered  
9 to an employer or employee that provides reimbursement or other wellness-related benefits  
10 intended to promote health or wellness, including but not limited to employer-sponsored wellness

11 reimbursement arrangements or other wellness benefit structures offered through insurance or  
12 similar benefit models that:

13 (1) Have issued a contract to provide services and pay claims pertaining to  
14 reimbursements of qualified medical expenses relating to §26 U.S.C. 213 of the Internal Revenue  
15 Code; and

16 (2) Are intended, created, marketed, and sold as an ancillary product to an individual or  
17 group health insurance coverage or self-insured group health plan.

18 "Wellness reimbursement program, arrangement, or benefit plan" does not include any  
19 underlying individual or group health insurance coverage or a self-insured group health plan.

20 "Wellness reimbursement program administrator" means any person who manages the  
21 operation of a wellness reimbursement program.

**§33-64-2. Wellness reimbursement program, arrangement, or benefit plan administrator to be licensed.**

1 (a) No wellness reimbursement program, arrangement, or benefit plan administrator may  
2 sell, offer, market, promote, or operate a wellness reimbursement program, arrangement, or  
3 benefit plan as that term is defined in this article without first being licensed by the commissioner.

4 (b) Application for a license shall be on forms prescribed by the commissioner and shall  
5 be accompanied by an initial license fee of \$5,000, annual financial statements or reports for the  
6 two preceding calendar years, and any other documents that the commissioner may require to  
7 ensure that the wellness reimbursement program, arrangement, or benefit plan administrator  
8 meets the requirements for licensure set forth in this article. Thereafter, an application fee for a  
9 renewal offering shall be \$500. These fees shall be retained by the commissioner to offset the  
10 costs of administering this article.

11 (c) In addition to the documents required under subsection (b) of this section, a wellness  
12 reimbursement program, arrangement, or benefit plan administrator shall comply with federal  
13 ERISA requirements or submit a letter or document from the Internal Revenue Service or the U.S.

14 Department of Labor approving of the specific wellness reimbursement program, arrangement,  
15 or benefit plan in question.

16 (d) A wellness reimbursement program, arrangement, or benefit plan administrator shall  
17 make and keep a full and correct record of its business and affairs, and the commissioner shall  
18 inspect these records at least every three years. The information from these records shall be  
19 furnished to the commissioner on demand, and the original books or records shall be open to  
20 examination by the commissioner when demanded. The cost of the examination shall be borne  
21 by the wellness reimbursement program, arrangement, or benefit plan administrator.

22 (e) A wellness reimbursement program, arrangement, or benefit plan administrator shall  
23 file and maintain with the commissioner a surety bond in favor of the state executed by a surety  
24 company authorized to transact business in this state. The commissioner may set the  
25 requirements of the surety bond as necessary.

26 (f) Before granting any license, the commissioner or his designee shall be satisfied that  
27 the wellness reimbursement program, arrangement, or benefit plan administrator is competent,  
28 trustworthy, financially responsible, has a good personal and business reputation, has not had an  
29 insurance license revoked, suspended, or denied in any jurisdiction within the preceding five  
30 years, and has not been convicted of a crime that bears a rational nexus to the activities licensed  
31 under this article in any jurisdiction. For purposes of this section, "convicted" includes a plea of  
32 guilty or a plea of nolo contendere.

33 (g) The commissioner may revoke or suspend any license issued to a wellness  
34 reimbursement program, arrangement, or benefit plan administrator when he or she finds that any  
35 condition exists which would have prohibited issuance of the original license, that the wellness  
36 reimbursement program, arrangement, or benefit plan administrator has violated any provision of  
37 this article, or that the wellness reimbursement program, arrangement, or benefit plan  
38 administrator has deceived or dealt unjustly with the citizens of this state. In lieu of revocation or

39 suspension of license, the commissioner may impose a civil penalty not to exceed \$1,000 for  
40 each offense.

41 (h) Any wellness reimbursement program, arrangement, or benefit plan administrator who  
42 fails to obtain a license is subject to the penalties under §33-64-5 of this code and is subject to  
43 revocation of any licenses issued by the commissioner.

44 (i) Any proprietary information required by this article to be provided to, filed with, or  
45 available for review by the commissioner is confidential and is not subject to public disclosure,  
46 including disclosure pursuant to §29B-1-1 *et seq.* of this code.

**§33-64-3. Compliance with federal and state laws.**

1 (a) A wellness reimbursement program, arrangement, or benefit plan administrator shall  
2 attest to the commissioner and to the employer or employee that the wellness reimbursement  
3 program, arrangement, or benefit plan complies with all federal and state laws.

4 (b) A wellness reimbursement program, arrangement, or benefit plan administrator may  
5 not cause or knowingly permit the use of any advertisement, promotion, solicitation,  
6 representation, proposal, or offer that is untrue, deceptive, or misleading.

7 (c) If the wellness reimbursement program, arrangement, or benefit plan results in a  
8 taxable event for either the employer or the employee associated with the wellness  
9 reimbursement program, arrangement, or benefit plan, the wellness reimbursement program,  
10 arrangement, or benefit plan administrator shall defend the employer and its employees against  
11 any and all claims or suits that arise out of or by virtue of the wellness reimbursement program,  
12 arrangement, or benefit plan and shall indemnify the employer and its employees for a loss or  
13 judgment incurred by them as a result of the claim or suit.

**§33-64-4. Brokers; commissions.**

1 (a) A broker is not required to register as a wellness reimbursement program,  
2 arrangement, or benefit plan administrator to acquire commissions paid by such a company.

3 (b) A broker is not an employee of the wellness reimbursement program, arrangement, or  
4 benefit plan administrator and is only necessary to facilitate the partnership of the wellness  
5 reimbursement program, arrangement, or benefit plan administrator and the respective employee  
6 group enrolling in the wellness reimbursement program, arrangement, or benefit plan being that  
7 the services of the wellness reimbursement program, arrangement, or benefit plan are not  
8 straight-to-market services.

9 (c) Notwithstanding any provision of subsections (a) or (b) of this section to the contrary,  
10 a broker may not cause or knowingly permit the use of any advertisement, promotion, solicitation,  
11 representation, proposal, or offer that is untrue, deceptive, or misleading.

12 (d) A broker shall exercise good faith and fair dealing to a person when offering, selling,  
13 marketing, or promoting a wellness reimbursement program, arrangement, or benefit plan.

**§33-64-5. Enforcement of this article.**

1 (a) The commissioner shall enforce this article.

2 (b) A person who violates any part of this article is guilty of a misdemeanor and, upon  
3 conviction thereof, shall be fined not more than \$20,000 or confined in jail not more than one year,  
4 or both fined and confined, for each violation, and is subject to revocation of any license issued  
5 by the commissioner.

6 (c) The commissioner may propose for promulgation legislative rules and regulations as  
7 he or she considers necessary to implement this article.

**§33-64-6. Wellness reimbursement programs, arrangements, or benefit plans do not apply  
to individual or group health plans.**

1 Nothing in this article applies to any health or wellness programs or activities offered by  
2 an individual or group health coverage or self-insured group health plan to its enrollees.

**§33-64-7. Insurance Commissioner to file report with Legislature.**

1 Every three years after the effective date of this article, the Insurance Commissioner shall  
2 prepare and file a report with the Legislature addressing the implementation of this article, as it

- 3 relates to the requirements for the programs outlined in this article, and any other information
- 4 requested by the Legislature to be included within the report.

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*

.....  
*Clerk of the Senate*

Originated in the House of Delegates.

In effect 90 days from passage.

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*Speaker of the House of Delegates*

.....  
*President of the Senate*

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The within is ..... this the.....  
Day of ....., 2026.

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*Governor*