

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 946

By Senator Helton

[Introduced February 16, 2026; referred
to the Committee on Health and Human Resources;
and then to the Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, by adding a new article, designated §33-64-1,
 2 §33-64-2, §33-64-3, §33-64-4, and §33-64-5, relating to hospital facility fee oversight;
 3 defining terms; prohibiting the charging to a facility fee; requiring reporting; permitting
 4 rulemaking; permitting the imposing of a fine; and permitting auditing.

Be it enacted by the Legislature of West Virginia:

ARTICLE 64. HOSPITAL FACILITY FEE OVERSIGHT.

§33-64-1. **Definitions.**

1 Definitions. As used in this section,
 2 "Campus" means: (1) a hospital's main buildings;
 3 (2) The physical area immediately adjacent to a hospital's main buildings and other areas
 4 and structures that are not strictly contiguous to the main buildings but are located within two
 5 hundred fifty (250) yards of the main buildings, or
 6 (3) Any other area that has been determined on an individual case basis by the Centers for
 7 Medicare & Medicaid Services to be part of a hospital's campus.
 8 "Facility fee" means any fee charged or billed by a health care provider for outpatient
 9 services provided in a hospital-based facility, or freestanding emergency facility that is:
 10 (1) Intended to compensate the health care provider for the operational expenses of the
 11 health care provider, and
 12 (2) Separate and distinct from a professional fee; and
 13 (3) Regardless of the modality through which the health care services were provided.
 14 "Freestanding Emergency Facility" means an emergency medical care facility that is
 15 licensed under §16B-3-1 et seq. and shall not include urgent care clinics.
 16 "Health system" means: (1) A parent corporation of one or more hospitals and any entity
 17 affiliated with such parent corporation through ownership, governance, membership or other
 18 means, or
 19 (2) A hospital and any entity affiliated with such hospital through ownership, governance,

20 membership or other means.

21 "Hospital" is a hospital licensed under §16B-3-1 et seq. for hospital licensure.

22 "Hospital-based facility" means a facility that is owned or operated, in whole or in part, by a
23 hospital where hospital or professional medical services are provided.

24 "Professional fee" means any fee charged or billed by a provider for professional medical
25 services provided in a hospital-based facility.

26 "Health care provider" means an individual, entity, corporation, person, or organization,
27 whether for profit or nonprofit, that furnishes, bills or is paid for health care service delivery in the
28 normal course of business, and includes, without limitation, health systems, hospitals, hospital-
29 based facilities, freestanding emergency facilities, and urgent care clinics.

§33-64-2. Prohibition on the charging of a facility fee.

1 (a) No health care provider shall charge, bill, or collect a facility fee, except for:

2 (1) Services provided on a hospital's campus;

3 (2) Services provided at a facility that includes a licensed hospital emergency department;

4 or

5 (3) Emergency services provided at a licensed freestanding emergency facility.

6 (b) Notwithstanding subsection (a) of this section and whether or not the services are
7 provided on a hospital's campus, no health care provider shall charge, bill, or collect a facility fee
8 for:

9 (1) Outpatient evaluation and management services; or

10 (2) Any other outpatient, diagnostic, or imaging services identified by the West Virginia
11 Insurance Commission pursuant to subsection (c) of this section.

12 (c) The Commission shall annually identify services subject to the limitations on facility
13 fees provided in subsection (a) of this section that may reliably be provided safely and effectively in
14 settings other than hospitals.

§33-64-3. Reporting.

1 (a) Each hospital and health system and freestanding emergency facility shall submit a
2 report annually to Commission concerning facility fees charged or billed during the preceding
3 calendar year. The report shall be in such format as Commission may specify. The Commission
4 shall publish the information reported on publicly accessible website designated by the
5 Commission.

6 (b) Such report shall include, without limitation, the following information:

7 (1) The name and full address of each facility owned or operated by the hospital or health
8 system or freestanding emergency facility that provides services for which a facility fee is charged
9 or billed;

10 (2) The number of patient visits at each such hospital-based facility [or freestanding
11 emergency facility] for which a facility fee was charged or billed;

12 (3) The number, total amount, and range of allowable facility fees paid at each such facility
13 by Medicare, Medicaid, and private insurance;

14 (4) For each hospital-based facility and for the hospital or health system as a whole [or
15 freestanding emergency facility], the total amount billed and the total revenue received from facility
16 fees;

17 (5) The top ten procedures or services, identified by current procedural terminology (CPT)
18 Category I codes, provided by the hospital or health system (or freestanding emergency facility)
19 overall that generated the greatest amount of facility fee gross revenue, the volume each of these
20 ten procedures or services and gross and net revenue totals, for each such procedure or service,
21 and, for each such procedure or service, the total net amount of revenue received by the hospital
22 or health system [or freestanding emergency facility] derived from facility fees;

23 (6) The top 10 procedures or services, identified by current procedural terminology (CPT)
24 Category I codes, based on patient volume, provided by the hospital or health system or
25 freestanding emergency facility overall for which facility fees are billed or charged based on patient
26 volume, including the gross and net revenue totals received for each such procedure or service;

27 (7) Any other information related to facility fees that the Commission may require.

§33-64-4. Rulemaking.

1 (a) The Commission may promulgate legislative rules necessary to implement this section,
2 specify the format and content of reports, and impose penalties for noncompliance consistent with
3 the department’s authority to regulate health care providers.

§33-64-5. Violations and auditing.

1 (a) A health care provider that violates any provision of this act or the rules and regulations
2 adopted pursuant hereto shall be subject to an administrative penalty of not more than \$1,000 per
3 occurrence.

4 (b) The Commission or its designee may audit any health care provider for compliance with
5 the requirements of this section. Until the expiration of four years after the furnishing of any
6 services for which a facility fee was charged, billed, or collected, each health care provider shall
7 make available, upon written request of the Commission or its designee, copies of any books,
8 documents, records, or data that are necessary for the purposes of completing the audit.

NOTE: The purpose of this bill is to prohibit the charging of facility fees, to provide for penalties and to require reporting.

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