

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 4509  
OFFERED BY \_\_\_\_\_**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Transparency in Bill-  
3 ing Act of 2023”.

**4 SEC. 2. HONEST BILLING REQUIREMENTS.**

5 (a) IN GENERAL.—Subpart B of part 7 of subtitle  
6 B of title I of the Employee Retirement Income Security  
7 Act of 1974 (29 U.S.C. 1185 et seq.) is amended by add-  
8 ing at the end the following new section:

**9 “SEC. 726. HONEST BILLING REQUIREMENTS.**

10 “A group health plan or health insurance issuer offer-  
11 ing group health insurance coverage may not pay a claim  
12 for items and services furnished to an individual at an off-  
13 campus outpatient department of a provider (as defined  
14 in section 901(c)) submitted by a hospital (as defined in  
15 section 1861(e) of the Social Security Act) unless such  
16 claim submitted by such hospital includes the separate  
17 unique health identifier for the department where items

1 and services were furnished, in accordance with section  
2 901.”.

3 (b) CLERICAL AMENDMENT.—The table of contents  
4 of the Employee Retirement Income Security Act of 1974  
5 (29 U.S.C. 1001 note) is amended by adding after the  
6 item relating to section 725 the following:

“726. Banning dishonest billing.”.

7 (c) EFFECTIVE DATE.—The amendments made by  
8 this section shall take effect with respect to plan years  
9 beginning on or after January 1, 2024.

10 **SEC. 3. REGULATION OF HONEST BILLING.**

11 (a) IN GENERAL.—Subtitle B of title I of the Em-  
12 ployee Retirement Income Security Act of 1974 (29  
13 U.S.C. 1021 et seq.) is amended by adding at the end  
14 the following new part:

15 **“PART 9—BILLING REQUIREMENTS WITH RE-**  
16 **SPECT TO GROUP HEALTH PLANS AND COV-**  
17 **ERAGE**

18 **“SEC. 901. HONEST BILLING REQUIREMENTS.**

19 “(a) IN GENERAL.—A hospital may not, with respect  
20 to items and services furnished to an individual at an off-  
21 campus outpatient department of a provider, submit a  
22 claim for such items and services to a group health plan  
23 or health insurance issuer, and may not hold such indi-  
24 vidual liable for such items and services, unless—

1           “(1) such hospital obtains a separate unique  
2 health identifier established for such department  
3 pursuant to section 1173(b) of the Social Security  
4 Act; and

5           “(2) the claim for such items and services in-  
6 cludes such separate unique health identifier for  
7 such department where such items and services were  
8 furnished.

9           “(b) PROCESS FOR REPORTING SUSPECTED VIOLA-  
10 TIONS.—Not later than one year after the date of enact-  
11 ment of this section, the Secretary shall establish a process  
12 under which a suspected violation of this section may be  
13 reported to such Secretary.

14           “(c) OFF-CAMPUS OUTPATIENT DEPARTMENT OF A  
15 PROVIDER DEFINED.—For purposes of this paragraph,  
16 the term ‘off-campus outpatient department of a provider’  
17 means a department of a provider (as defined in section  
18 413.65 of title 42, Code of Federal Regulations, or any  
19 successor regulation) that is not located—

20           “(1) on the campus (as defined in such section)  
21 of such provider; or

22           “(2) within the distance (described in such defi-  
23 nition of campus) from a remote location of a hos-  
24 pital facility (as defined in such section).”.

1 (b) CLERICAL AMENDMENT.—The table of contents  
2 of the Employee Retirement Income Security Act of 1974  
3 (29 U.S.C. 1001 note) is amended by inserting after the  
4 item relating to section 804 the following new item:

“PART 9—REGULATION OF HOSPITALS

“901. Hospital billing requirements.”.

5 **SEC. 4. ENFORCEMENT.**

6 Section 502 of the Employee Retirement Income Se-  
7 curity Act of 1974 (29 U.S.C. 1132) is amended—

8 (1) in subsection (a)(6), by striking “or (9)”  
9 and inserting “(9), or (13)”; and

10 (2) in subsection (c), by adding at the end the  
11 following new paragraph:

12 “(13) The Secretary may assess a civil mone-  
13 tary penalty against a hospital for a violation under  
14 section 901 in an amount—

15 “(A) in the case of a hospital with not  
16 more than 30 beds (as determined under sec-  
17 tion 180.90(c)(2)(ii)(D) of title 45, Code of  
18 Federal Regulations, as in effect on the date of  
19 the enactment of this paragraph), not to exceed  
20 \$300 per day that the violation is ongoing, as  
21 determined by the Secretary; and

22 “(B) in the case of a hospital with more  
23 than 30 beds (as so determined), not to exceed  
24 \$5,500 per each such day.”.

1 **SEC. 5. IMPLEMENTATION.**

2       The Secretary of Labor shall implement the amend-  
3 ments made by this Act by rulemaking.

