HEALTHCARE GOVERNANCE | POLICY BRIEF

MODEL POLICY BRIEF

Billing Experts Should Show Their Work - and the Limits of Their Expertise

A structured transparency standard for billing and medicolegal expert opinions

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RECOMMENDED ACTION

Adopt a content-neutral Billing Opinion Disclosure Standard that requires a retained expert to identify each opinion, demonstrate qualification for that opinion, disclose the sources and benchmark provenance, explain the method and calculations, connect the analysis to the case, and state material assumptions and limitations.

The title "billing expert" should not erase the boundaries of the expert's actual experience.

This brief proposes a model disclosure framework. It does not recommend that any jurisdiction enact BORS100 as a mandatory score, and it does not alter the legal standards governing admissibility, credibility, evidentiary weight, payment, or professional judgment.

Executive Summary

Medical billing disputes may require expertise in coding, clinical documentation, charge development, payment methodology, medical necessity, clinical complexity, payer policy, benchmark construction, and healthcare economics. These fields overlap, but they are not interchangeable. A witness may have substantial experience in one area while presenting opinions in another, and a polished presentation may make those boundaries difficult for a jury or other non-specialist to see.

The policy problem is not professional disagreement. It is the risk that decision-makers receive a precise conclusion without enough structured information to evaluate the expert's qualification for the specific question, the data and benchmark selected, the analytical pathway, the calculation, the case-specific reasoning, and the limitations of the opinion.

Existing federal law already reflects the importance of expert qualification, sufficient facts or data, reliable principles and methods, reliable application, and pretrial disclosure. Federal Rule of Evidence 702 requires the proponent to demonstrate the rule's conditions to the court by a more-likely-than-not standard. Federal Rule of Civil Procedure 26 requires retained-expert reports to state all opinions and their bases, facts or data considered, exhibits, qualifications, prior testimony, and compensation. [2-4]

A billing-specific disclosure schedule would not replace those rules. It would make them easier to apply in a technical field where similar-sounding opinions may rest on very different expertise and data.

Recommendation

Adopt a jurisdiction-appropriate Billing Opinion Disclosure Standard through court rule, administrative rule, professional guidance, institutional policy, or legislation where constitutionally and procedurally appropriate. The standard should:

- Classify each opinion by type rather than treating "medical billing" as a single undifferentiated field.
- Require qualification-to-opinion fit for each opinion category.
- Require traceable sources, benchmark provenance, methods, calculations, assumptions, exclusions, and case linkage.
- Apply symmetrically to provider, payer, plaintiff, defense, employer, government, and neutral experts.
- Protect privileged, confidential, proprietary, and patient-identifying information through existing safeguards.
- Use proportionate remedies focused first on cure and supplementation.
- Make clear that no score, including BORS100, independently determines admissibility, truth, credibility, payment, or bad faith.

Core policy judgment

Expert testimony should be evaluated at the level of the specific opinion offered. General credentials or a broad occupational title should not substitute for demonstrated qualification, transparent methodology, and case-specific support.

1. The Policy Problem

"Medical billing" is not one field

A single dispute may involve several distinct questions:

- Was a service coded correctly?
- Does the clinical record support the code or modifier?
- Was the billed charge reasonable for the market and service?
- Was an allowed amount or payment reasonable under a contract, statute, or policy?
- Was a benchmark accurately described and fit for the question?
- Was the service medically necessary?
- Did clinical complexity, site of service, geography, timing, or emergency circumstances matter?
- Does an economic conclusion properly distinguish charges, costs, allowed amounts, and payments?

A coding professional, clinician, payer analyst, revenue-cycle professional, statistician, economist, and reimbursement consultant may each contribute legitimate expertise. None should automatically be presumed qualified for every question merely because each question relates to a bill.

The risk to non-specialist decision-makers

Jurors, judges, arbitrators, hearing officers, and organizational leaders may not know where one field ends and another begins. They may hear a witness introduced under a broad title, see precise numbers or percentiles, and reasonably assume the entire analysis rests on a unified body of expertise. Without structured disclosure, the audience may have difficulty distinguishing:

- A code descriptor from an analysis of clinical complexity.
- A billed charge from an allowed amount or paid claim.
- A Medicare rate from a commercial-market benchmark.
- A database percentile from a case-specific valuation.
- Experience with one payer from broader market expertise.
- A replicable calculation from an experience-only conclusion.

The resulting risk is confusion, not necessarily misconduct. An incomplete or overextended opinion may still be offered in good faith. The appropriate policy response is therefore structured transparency, symmetrical application, and proportionate remedies—not labels, presumptions of dishonesty, or automatic exclusion.

Why cross-examination alone may be insufficient

Cross-examination remains indispensable. But it is most effective when the scope, data, benchmark, workpapers, assumptions, and limits of the opinion are disclosed before the witness presents a concise and confident conclusion. Federal Rule of Evidence 705 permits an expert, unless the court orders otherwise, to state an opinion and reasons without first testifying to the underlying facts or data, subject to disclosure on cross-examination. [2] A billing-specific pretrial schedule can reduce avoidable surprise and focus examination on the real analytical disputes.

2. Existing Legal Foundation

Federal Rule of Evidence 702

The current federal rule permits expert testimony only when the proponent demonstrates to the court that it is more likely than not that the expert's specialized knowledge will help the trier of fact, the testimony is based on sufficient facts or data, the testimony is the product of reliable principles and methods, and the opinion reflects a reliable application of those principles and methods to the facts. [2] The 2023 amendment was described by the federal judiciary as clarifying both the proponent's burden and the bounds of expert testimony. [4]

The proposal in this brief does not change that standard. It supplies billing-specific disclosure fields that can help courts and parties identify the relevant qualifications, facts, methods, and application.

Federal Rule of Civil Procedure 26

For retained experts required to provide a report, Rule 26(a)(2)(B) already requires a complete statement of opinions and bases, facts or data considered, supporting exhibits, qualifications, prior expert testimony, and compensation. [3] The proposed schedule operationalizes those categories for billing and reimbursement opinions by requiring, for example, the dataset name, version, year, geography, percentile, population, and the reason a benchmark answers the stated question.

A useful model, not a federal mandate

States and administrative forums have different procedural, evidentiary, and constitutional arrangements. Some state constitutions reserve court-rule authority to the judiciary. Accordingly, legislation should not be copied verbatim across jurisdictions. The preferred route may be a supreme court rule petition, administrative regulation, standard case-management order, professional-society standard, or institutional procurement requirement. Local counsel should review separation-of-powers, privilege, discovery, confidentiality, and due-process issues before adoption.

3. Proposed Billing Opinion Disclosure Standard

The standard should apply to a retained or specially employed witness offering a written opinion concerning medical billing, coding, documentation, charges, reimbursement, payment, benchmark interpretation, medical necessity, clinical complexity as used in a billing analysis, or healthcare economics in a covered proceeding.

A. Define each opinion

The report should separately identify every opinion and classify it as one or more of the following:

- Coding or modifier opinion
- Documentation-sufficiency opinion
- Medical-necessity opinion
- Clinical-complexity opinion
- Billed-charge opinion
- Allowed-amount or payment opinion

- Contract or payer-policy interpretation
- Fee-schedule opinion
- Benchmark interpretation
- Healthcare-economic or market opinion
- Other, specifically described

If an opinion combines categories, the expert should identify which parts depend on clinical judgment, technical coding knowledge, contract or policy interpretation, statistical analysis, or economic reasoning.

B. Demonstrate qualification-to-opinion fit

For each opinion category, the expert should identify the education, training, certification, licensure, work experience, research, publications, or other specialized experience that supports the opinion. A résumé alone is not enough if it does not connect the qualification to the question.

The expert should also state material limits. Examples include lack of clinical licensure, lack of current coding certification, experience limited to a single payer, no role in charge development, no access to contracts, or no expertise in statistical construction of the selected dataset.

C. Identify records and source materials

The report should list the records reviewed, identify materials requested but unavailable, and disclose material exclusions. The list should distinguish medical records, billing records, claim forms, explanations of benefits, contracts, fee schedules, payer policies, coding references, benchmark documentation, and workpapers.

D. Disclose benchmark provenance and fitness for purpose

For every benchmark, database, fee schedule, survey, or published reference, the report should state:

- Name and publisher or custodian
- Version, release year, and date accessed
- Relevant geography and time period
- Population represented and material exclusions
- Charge, cost, allowed-amount, or payment construct measured
- Percentile or summary statistic used
- Adjustments, filters, or normalization
- Known limitations relevant to the opinion
- Why the benchmark is fit for the precise question
- Reasonable alternatives considered and why they were not selected

E. Explain methodology and calculations

The report should provide a step-by-step description of the analytical method and enough information for another qualified reviewer to follow the path from source to conclusion. It should include formulas, raw values or a lawful means to inspect them, inclusion and exclusion rules, adjustments, rounding, weighting, sensitivity assumptions, and workpapers or reproducible exhibits.

A narrative explanation may be sufficient when the opinion is not mathematical, but the report should still identify the reasoning steps and professional standards used.

F. Connect general data to the individual case

The report should explain how the method accounts for the actual services, documentation, code set, modifiers, site of service, geography, date of service, clinical complexity where relevant, contractual or statutory setting, and any unusual resource requirements. If a factor was not considered, the report should say so rather than implying a case-specific conclusion that was not performed.

G. State assumptions, uncertainty, exclusions, and limitations

Material assumptions and exclusions should be stated in one location. Where reasonable changes in inputs could materially change the conclusion, the report should describe that sensitivity qualitatively or quantitatively. Unavailable information should not automatically produce an adverse inference; its effect on the analysis should be explained.

H. Disclose relationships consistently

Existing rules may already require compensation and prior-testimony information. A jurisdiction may also consider requiring a concise, symmetrical disclosure of recurring retention relationships or the distribution of expert work when relevant and lawful. Repeat work does not prove bias. The purpose is disclosure, not condemnation.

4. Model Disclosure Schedule

A one- to three-page schedule should accompany the report. It should not replace the report; it should index the information needed for review.

Field	Required entry	Purpose
Opinion inventory	Separate numbered opinions and category	Prevents broad labels from obscuring distinct questions.
Qualification fit	Specific basis for each opinion	Connects credentials to the actual testimony.
Materials	Reviewed, unavailable, and excluded items	Shows the evidentiary foundation and gaps.
Benchmark	Source, version, date, geography, construct, statistic	Makes provenance and fitness visible.
Method	Sequential analytical steps	Allows meaningful professional review.

Field	Required entry	Purpose
Calculations	Values, formulas, adjustments, workpapers	Supports audit and reproduction.
Case linkage	Service-, date-, geography-, and context-specific analysis	Tests application to the actual matter.
Limitations	Assumptions, uncertainty, exclusions, missing data	Prevents false precision.
Relationships	Compensation and required retention disclosures	Permits consistent evaluation of potential incentives.
Certification	Complete, current, and supplemented if material facts change	Creates accountability for the disclosure.

Table 1. Model Billing Opinion Disclosure Schedule. This schedule is an implementation aid, not a scoring instrument.

5. Where BORS100 Fits

The Billing Opinion Reliability Score 100 (BORS100) is a published conceptual framework that organizes review across seven weighted domains: opinion scope and qualification fit; source and documentation support; methodology and reproducibility; benchmark literacy and fitness for purpose; case-specific clinical or procedural linkage; transparency and auditability; and bias and independence disclosure. [1]

BORS100 can help reviewers identify what is documented, what can be followed, and where limitations remain. It also demonstrates that billing-opinion review can be organized without declaring an opinion true, false, admissible, credible, or payable.

ESSENTIAL SAFEGUARD

The proposed law or rule should not require a BORS100 score. It should require transparent disclosures. BORS100 may be cited as one published framework, used voluntarily as a review aid, or studied in pilot programs.

Current status and limits

- BORS100 is a published conceptual framework and pilot-use structured review aid.
- The scoring tool and interpretation bands have not yet been empirically validated or psychometrically calibrated.
- A high score does not establish substantive correctness.
- A low score does not establish dishonesty, bias, negligence, bad faith, or inadmissibility.

- The domain profile, evidence notes, missing information, narrative, reviewer qualifications, and framework version matter more than a total alone.
- BORS100 should be applied symmetrically to opinions offered by all parties.

6. Implementation Pathways

Pathway	Best use	Key caution
Court rule or standing order	Civil litigation and pretrial expert disclosure	Respect judicial rulemaking authority and existing privilege protections.
Administrative rule	Workers' compensation, insurance, reimbursement, or licensing proceedings	Define covered opinions and avoid conflict with governing statutes.
Legislation	State-regulated proceedings or directive to study/adopt standards	Review separation of powers and avoid dictating admissibility outcomes.
Professional guidance	Expert-report best practices and education	Voluntary guidance needs adoption incentives and clear status.
Institutional policy	Hospitals, payers, employers, counsel, and neutral review programs	Apply symmetrically and protect confidential information.
Pilot program	Testing usability, burden, inter-rater agreement, and outcomes	Do not represent a pilot score as validated or dispositive.

Table 2. Implementation options should be selected for the jurisdiction and forum.

Recommended sequence

1. Convene a balanced working group including judges or hearing officers, plaintiff and defense counsel, provider and payer representatives, clinicians, coding professionals, reimbursement experts, methodologists, and patient or public-interest representatives.
2. Map existing disclosure rules and identify only the billing-specific gaps.
3. Pilot the disclosure schedule without a mandatory score.
4. Measure completion time, supplementation, motion practice, discovery disputes, user comprehension, and unintended effects.
5. Revise the schedule and adopt it through the proper legal authority.
6. Publish implementation guidance, sample forms, and a review date.

7. Remedies and Due-Process Safeguards

Use proportionate remedies

The goal is timely disclosure, not tactical exclusion. Unless governing law requires otherwise, remedies should generally progress from notice and cure to stronger measures:

- Prompt supplementation within a defined period.
- Production of nonprivileged workpapers or a privilege log.
- Limited supplemental deposition or written questions.
- Continuance where late disclosure causes material prejudice.
- Reasonable cost shifting for avoidable additional discovery.
- Limitation or exclusion only under the jurisdiction's existing standards and after an opportunity to be heard.

Protect lawful confidentiality

The standard should not require public disclosure of protected health information, trade secrets, privileged communications, proprietary datasets, or contract terms beyond what governing law permits. Courts and agencies should retain authority to use protective orders, in camera review, redaction, data rooms, summaries, or other methods that preserve meaningful review while protecting lawful interests.

Avoid compelled adoption of a private product

The required disclosure fields should be stated in law, rule, or public guidance. Compliance should not depend on purchasing access to BORS100, using a branded calculator, or accepting proprietary interpretation bands. Public forms should be freely available.

Apply the standard symmetrically

The same disclosure obligations should apply regardless of whether the opinion supports a provider, payer, plaintiff, defendant, employer, government entity, or neutral. A standard that is used only against one side will lose credibility and may distort rather than improve expert review.

8. Expected Benefits and Evaluation

Expected benefits

- Earlier identification of qualification-to-opinion mismatches.
- Clearer distinction among coding, clinical, charge, payment, benchmark, and economic opinions.
- More focused depositions, motions, hearings, and cross-examination.
- Fewer disputes over basic benchmark identity, source versions, and calculation paths.
- Better-quality reports from experts on all sides.
- Improved self-review by counsel, experts, agencies, and healthcare organizations.
- Reduced risk that precision or presentation style substitutes for analytical transparency.

Do not promise unproven outcomes

The proposal has not yet been shown to reduce litigation cost, change verdicts, improve payment accuracy, or increase inter-rater agreement. Those are testable hypotheses, not established benefits. Pilot evaluation should distinguish administrative burden from actual improvements in disclosure and comprehension.

Suggested evaluation measures

- Percentage of reports with complete opinion inventories and benchmark provenance.
- Frequency and type of supplementation requests.
- Time required to complete and review the schedule.
- Expert-disclosure disputes and related hearing time.
- User comprehension among attorneys, hearing officers, and mock jurors.
- Agreement among trained reviewers on whether required fields are present.
- Unintended exclusion, delay, confidentiality, or access effects.
- Whether burdens fall unevenly on smaller practices, claimants, providers, or public agencies.

9. Objections and Responses

Objection: Expert qualifications are already tested through voir dire and cross-examination.

Response: Those mechanisms remain essential. A structured pretrial schedule makes the relevant qualifications, methods, and limits visible earlier, allowing those mechanisms to work more efficiently and reducing the risk that a broad title substitutes for opinion-specific scrutiny.

Objection: Rule 26 already requires a complete expert report.

Response: Rule 26 supplies broad categories. A billing-specific schedule operationalizes them by distinguishing opinion types and requiring benchmark provenance, construct, case linkage, and calculation-path details that may otherwise remain unclear. The schedule should avoid duplicating information that is already easy to locate in the report.

Objection: Billing fields overlap and cannot be divided rigidly.

Response: The proposal does not create impermeable professional silos. It requires the expert to identify which expertise and method support each conclusion, including where a multidisciplinary opinion is appropriate.

Objection: Disclosure will increase cost and report length.

Response: There will be some implementation burden. A short standardized schedule, incorporated by reference to report pages, can limit duplication. Earlier clarity may reduce later disputes, but that claimed benefit should be measured rather than assumed.

Objection: Proprietary benchmarks cannot be disclosed.

Response: Meaningful review does not always require public production of the entire dataset. Source identity, version, construct, filters, inputs, and methods can often be disclosed while access to proprietary material is managed through licensing, protective orders, controlled inspection, or other lawful safeguards.

Objection: A score will become a back-door admissibility test.

Response: The proposed standard requires disclosures, not a score. Any implementing text should expressly state that BORS100 or another framework does not independently determine admissibility, truth, credibility, payment, or evidentiary weight.

Objection: Repeat work does not prove bias.

Response: Correct. Disclosure is not a finding. Any relationship requirement should be symmetrical, limited to information relevant under governing law, and accompanied by a statement that compensation or repeat retention alone does not establish bias.

10. What the Proposal Does Not Do

- It does not label individual experts, firms, or parties as predatory.
- It does not presume that an incomplete report is false or offered in bad faith.
- It does not establish that one profession owns all billing opinions.
- It does not require every expert to possess every type of expertise.
- It does not replace Federal Rule of Evidence 702, Daubert, Kumho Tire, or state-law equivalents.
- It does not determine a reasonable charge, payment, reimbursement, damages award, or case outcome.
- It does not convert publication or use of BORS100 into governmental endorsement.
- It does not eliminate judicial discretion, professional judgment, cross-examination, or opposing evidence.

Appendix A - Model Policy Language

The following is concept language for counsel and rulemakers. It requires jurisdiction-specific legal review before introduction or adoption.

Section 1. Purpose

The purpose of this standard is to improve the transparency and reviewability of expert opinions concerning medical billing, coding, charges, reimbursement, payment, benchmark interpretation, medical necessity, clinical complexity used in billing analysis, and healthcare economics, while preserving existing law governing admissibility, privilege, confidentiality, evidentiary weight, and professional judgment.

Section 2. Definitions

"Billing opinion" means a written or testimonial expert opinion concerning one or more of the covered subjects identified above. "Retained expert" means a person retained or specially employed to provide expert opinion in a covered proceeding. "Benchmark" means a dataset, fee schedule, survey, policy, contract-derived value, statistical reference, or other external comparator used to support a billing opinion.

Section 3. Disclosure required

A party offering a retained expert's billing opinion shall provide a report and Billing Opinion Disclosure Schedule that:

- Separately states each opinion and its category.
- Identifies the qualification supporting each opinion.
- Lists the records, data, and source materials considered.
- Identifies material requested or relevant information that was unavailable or excluded.
- For each benchmark, identifies source, version, date, geography, population, construct measured, statistic used, adjustments, material limitations, and fitness for the stated purpose.
- Describes the methodology and provides the calculation path and nonprivileged supporting workpapers or exhibits.
- Explains the application of the method to the facts and circumstances of the matter.
- States material assumptions, exclusions, uncertainty, sensitivity, and limits of the opinion.
- Provides compensation, prior-testimony, and relationship disclosures required by governing law.
- Certifies that the schedule is complete to the best of the expert's knowledge and will be supplemented when required.

Section 4. Incorporation by reference

The schedule may identify the report page, exhibit, or produced workpaper containing the required information and need not duplicate information that is clearly and specifically located.

Section 5. Confidential and protected information

Nothing in this standard requires disclosure beyond governing law. The court or agency may protect privileged, confidential, proprietary, trade-secret, or patient-identifying information while preserving a fair opportunity for meaningful review.

Section 6. Cure and remedies

Upon a good-faith claim of material noncompliance, the offering party shall have a reasonable opportunity to cure unless delay would cause substantial prejudice or governing law provides otherwise. Any sanction, limitation, cost shifting, or exclusion shall be determined under existing law after notice and an opportunity to be heard.

Section 7. Neutrality and non-dispositive effect

This standard applies without regard to the identity of the retaining party. Compliance or noncompliance does not by itself establish admissibility, truth, credibility, evidentiary weight,

reasonable payment, bad faith, or professional misconduct. No particular private scoring framework is required.

Section 8. Pilot and review

The adopting authority should review implementation after a defined pilot period using measures of burden, completion, supplementation, disputes, comprehension, confidentiality, and access to qualified experts.

Appendix B - BORS100 Domain Crosswalk

BORS100 domain	Weight	Disclosure-standard counterpart
Opinion Scope and Qualification Fit	15	Opinion inventory; qualification-to-opinion statement; limits of expertise.
Source and Documentation Support	15	Materials list; source identity; unavailable and excluded information.
Methodology and Reproducibility	20	Sequential method; calculations; workpapers; assumptions; alternatives.
Benchmark Literacy and Fitness for Purpose	15	Provenance, construct, geography, date, population, statistic, limitations, and selection rationale.
Case-Specific Clinical or Procedural Linkage	15	Application to actual services, context, complexity, setting, geography, and timing.
Transparency and Auditability	10	Traceable values, source versions, arithmetic, exclusions, and complete data path.
Bias and Independence Disclosure	10	Compensation, recurring relationships, and other disclosures required by law or policy.

Table 3. BORS100 totals 100 points. The crosswalk is explanatory only; the proposed disclosure standard does not require scoring.

Appendix C - References and Primary Authorities

1. Klapper AM, Dardano AN, et al. Billing Opinion Reliability Score 100: A Structured Framework for Billing and Medicolegal Expert Reliability. Cureus. Published July 11, 2026. PubMed PMID: 42436700. PubMed record

2. Federal Rules of Evidence, Rules 702-705 (Dec. 1, 2025 edition). U.S. Courts. Federal Rules of Evidence PDF

3. Federal Rules of Civil Procedure, Rule 26(a)(2)(B) and Rule 26(b)(4)(C) (current official compilation accessed July 13, 2026). U.S. Courts. Federal Rules of Civil Procedure PDF

4. Administrative Office of the U.S. Courts. Recent and Proposed Amendments to Federal Rules - Annual Report 2023 (explaining the 2023 Rule 702 amendment). U.S. Courts Annual Report 2023

5. Ninth Circuit Model Civil Jury Instruction 2.14, Expert Opinion Testimony (official judiciary resource; accessed July 13, 2026). Ninth Circuit Model Civil Jury Instruction 2.14

Publication and Use Notice

This document states a Healthcare Governance policy position. It is informed by published research and current legal authorities but is not itself a peer-reviewed publication, legal opinion, or model act approved for introduction. Any proposed legislation, court rule, administrative rule, or institutional policy should be reviewed by qualified counsel in the relevant jurisdiction.

BORS100 is a proposed conceptual framework and pilot-use scoring aid. It has not yet been empirically validated or psychometrically calibrated. Use of the framework does not establish an attorney-client, physician-patient, consulting, expert-retention, or other professional relationship with the authors or Healthcare Governance.

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