

February 6, 2024

Oregon State Legislature
House Committee on Behavioral Health and Health Care
900 Court Street NE
Salem, OR 97301
Submitted electronically via OLIS

RE: House Bill 4012, relating to reimbursement of clinician-administered prescription drugs

Chair Nosse and Members of the Committee:

On behalf of Oregon's 61 community hospitals and the patients they serve, the Hospital Association of Oregon supports the prohibition of "white bagging," in which an insurer requires that a provider-administered medication be obtained through a designated third-party mail-order specialty pharmacy instead of using the provider's own on-site or affiliated pharmacy.

HB 4012, as introduced, would prohibit white bagging in certain care settings under very narrow circumstances. It does not go far enough to protect patient safety and ensure equity. **We support the - 1 amendment to HB 4012, which would expand the scope of the prohibition on white bagging to include all care settings and patient treatment needs.**

White bagging is a patient safety risk. Most drugs subject to insurer white bagging policies are needed to treat extremely sick patients – for example, people with cancer or severe autoimmune diseases. The quality issues and treatment delays that result from white bagging can be debilitating and even life-threatening for these patients. Ways that white bagging creates risk include:¹

- **Complexity and uncertainty in the drug supply chain.** The provider is often unable to validate the quality or integrity of the product being delivered, including chain of custody or shipping

¹ For more information about how white bagging works and why it can harm patients, see this infographic from the American Hospital Association: [Payer-Mandated White Bagging Model](#).



and storage conditions. Misdirected mail can result in delays. Separate inventory systems for white-bagged medications can increase the risk of errors.

- **Treatment delays due to changes in clinical needs.** If a patient’s clinical status has changed from when the medication was ordered (for instance, the patient needs a different dose based on updated lab results), the adjusted medication must be re-ordered from the third-party pharmacy, treatment is delayed, and the original order of medication may have to be wasted. In the absence of white bagging, providers can make just-in-time changes to medication dosing.

White bagging primarily exists to enhance insurer profits. The specialty pharmacies that insurers require providers and patients to use are often owned by or otherwise affiliated with the insurer. This allows insurers to harvest profits at multiple points in the supply chain. Insurers argue that white bagging saves money, but there is little evidence that those savings are passed on to patients. In fact, a study of patients with cancer found that white bagging (and the similar practice of “brown bagging,” in which medications are shipped directly to patients) consistently resulted in *higher* out-of-pocket costs for patients.² Accusations that hospitals greedily mark up the cost of physician-administered drugs are misplaced. Oregon hospitals are barely breaking even³ while insurers maintain much higher margins. One analysis found that for the first nine months of 2023, the largest health insurers nationally posted profit margins more than *seventeen times higher* than those of nonprofit hospitals.⁴

The narrow prohibition on white bagging in the introduced version of HB 4012 creates inequities for patients and increases administrative demands on providers. White bagging is a safety hazard to all patients who need these medications, regardless of where they receive their treatment. As introduced, HB 4012:

- Applies only to patients with a “chronic, complex, rare, or life-threatening medical condition,” without specifying how that determination is made;
- Applies only to drugs administered in certain outpatient and clinic settings – hospital inpatient settings, for instance, appear to be excluded;
- Does not apply to pharmacy benefit managers; and
- Applies only if the patient’s physician or health care provider makes at least one of several specified determinations regarding the potential adverse impact of white bagging for the patient.

² See Ya-Chen Tina Shih, et al., [Financial Outcomes of “Bagging” Oncology Drugs Among Privately Insured Patients with Cancer](#), *JAMA Network Open*, September 7, 2023.

³ See [Q2 2023 Oregon Hospital Utilization and Financial Analysis](#).

⁴ STAT, [Here’s who’s profiting the most in health care](#), January 2, 2024, reporting that the average profit margin for the biggest companies by revenue in each sector for the first nine months of 2023 was: 17.4% for drugmakers; 10.7% for medical device manufacturers; 5.2% for health insurers; 4.5% for pharmacy benefit managers; 3.2% for for-profit hospitals; and 0.3% for nonprofit hospitals.



While HB 4012 may appear to be a step in the right direction, these features create inequitable protections for patients with certain health conditions and in certain care settings. Further, the process providers would have to follow to invoke the white bagging restrictions adds administrative work that may itself delay care and will likely weaken the practical effect of the bill. The -1 amendment would protect more patients.

We appreciate the opportunity to offer testimony on this important issue and remain committed to working with other stakeholders toward legislation that ensures patients have safe and reliable access to the medications they need.

Sincerely,



Troy Duker
Legislative Director
Hospital Association of Oregon

About the Hospital Association of Oregon

Founded in 1934, the Hospital Association of Oregon Association (HAO) is a mission-driven, nonprofit trade association representing Oregon's 61 hospitals. Together, hospitals are the sixth largest private employer statewide, employing more than 70,000 employees. Committed to fostering a stronger, safer, more equitable Oregon where all people have access to the high-quality care they need, the hospital association supports Oregon's hospitals so they can support their communities; educates government officials and the public on the state's health landscape and works collaboratively with policymakers, community based organizations and the health care community to build consensus on and advance health care policy benefiting the state's 4 million residents.

