

Senate Health and Human Services Committee

Sophie Walsh 271-3469

SB 256-FN, relative to the affordability and safety of clinician administered drugs.

Hearing Date: February 12, 2025

Time Opened: 9:15 a.m.

Time Closed: 10:00 a.m.

Members of the Committee Present: Senators Rochefort, Avard, Birdsell and Prentiss

Members of the Committee Absent : Senator Long

Bill Analysis: This bill requires a health plan to utilize the lowest cost method of reimbursement for clinician administered drugs and requires a health maintenance organization to cover clinician-administered drugs if the drug cannot reasonably be self-administered and is typically administered by a health care professional. The bill also prohibits a health maintenance organization from requiring that a pharmacy dispense a medication to a patient with the expectation that the patient will transport it to a health care setting for administration by a health care professional.

Sponsors:

Sen. McGough

Sen. Gannon

Sen. Rochefort

Rep. Potucek

Rep. Miles

Who supports the bill: Sen. McGough, John Reynolds (NFIB-NH), Paula Rogers (AHIP), Rep. Julie Miles, Sen. Gannon, and Hon. Efstathia Booras

Who opposes the bill: Cam Lapine (Cigna), Kathy Bizarro-Thunberg (NH Hospital Association), Tonya Carlton (NH SHP), Megan Tichy, and Curtis J. Barry (PCMA).

Who is neutral on the bill: Commissioner D.J. Bettencourt & Dr. Jason Aziz (NH Insurance Department) and Carlene Ferrier.

Summary of testimony presented:

Senator Tim McGough, Senate District 11

- Senator McGough explained that this bill is commonly referred to as the white bagging and brown bagging bill.
- Brown-bagging is having a pharmaceutical preparation, often an infusion drug, sent to one's home. The patient would then bring the drug to an infusion center where it would be administered.

- This poses several potential issues, especially if it is a drug that needs to be controlled in terms of temperature or other factors.
- If a drug is delivered to one's home and sits outside for a period of time, it may become damaged. This is just one possible scenario.
- There are isolated cases in which brown bagging is the only way for someone to receive their infusion drug, so there is a carve out for cases in which the provider deems it is the only option in a rural setting.
- Senator McGough explained that white bagging is having the drug sent to the administration site, rather than the patient's home.
- White bagging seems much safer because these facilities are skilled in handling these pharmaceutical preparations.
- However, problems may arise if a patient is in a critical disease state and the specific mix of their drug is critical. If they arrive at a scheduled treatment and their labs are slightly off, the drug that was white bagged is now not useable and a new mix is needed.
- In these situations, a more costly in-hospital pharmacy may be used, or the chair may go unfilled for the day with the clinician still needing to be paid for their time. Furthermore, the patient is getting rescheduled and sent home without receiving their treatment for the day.
- Senator McGough emphasized that the real cost here is the worsening outcome for patients. Missing a day or week of therapy can be incredibly stressful for a patient. This increase in stress hormones can feed tumors and make the situation worse.
- He explained that the amendment to the bill is adopted from Minnesota. It has some controls built in.
- It allows the plans to bill at the lower pharmacy benefit rate, even if the infusion gets administered in the hospital. Senator McGough recognized that this will be taking a small portion of revenue out of hospitals in the small number of scenarios where in-hospital pharmacies must be utilized.
- He emphasized that he believes this is the best thing to do for consumers.
- Senator McGough stated that this is for patient safety, clinical outcomes, and patient peace of mind. We are putting the provider who knows best in control, keeping patients safe, improving outcomes, and controlling costs.
- Massachusetts and Texas both have bills for this. It has already been passed in Minnesota, in addition to a number of other states.
- Senator Birdsell asked if there is any data from the other states that have passed this on any impact on premiums.
- Senator McGough stated that he hasn't seen any significant data on premium impact. Last year when he looked at it, there was minimal impact. All the fiscal notes he has seen are either indeterminant or dart throws.

Paula Rogers, AHIP

- Ms. Rogers explained that within the last decade, a lot of infusions have been moving out of hospital settings and into clinics and doctors' offices. She believes this was done to address the cost of receiving the infusion in a hospital setting compared to an alternative setting.
- This bill provides an opportunity to address the flaws in the system of white and brown bagging.
- Ms. Rogers addressed the bill's amendment and noted that there is a section aiming to control how the drugs are shipped for white bagging and a section that deals with an appeals process.
- No consumer should feel as though they have no opportunity for change in plans because of the circumstance they are in. They should be entitled to information delivered quickly and carefully to address their issues.
- Ms. Rogers emphasized that the amendment should be considered by the committee, rather than the underlying bill.
- She acknowledged that Senator McGough worked hard to produce a statute with a comprehensive structure to address these flaws in the system.
- She believes this is the time for the bill to go forward.
- She recalled when the concept first came into the legislative setting regarding the Pharmacy Board's concerns with infused drugs being sent to a doctor's office. She emphasized there is a long history of this that needs to be addressed.
- Senator Rochefort said he is familiar with this history because he was on the Board of Pharmacy when it arose.
- Senator Avard asked if Ms. Rogers finds the amendment sufficient to meet the needs of what the legislature is aiming for, and Ms. Rogers emphasized that the committee should consider the amendment.

Kathy Bizarro-Thunberg, NH Hospital Association

- Ms. Bizarro-Thunberg explained that she has not yet seen the amendment. She is submitting written testimony on the bill as introduced. That testimony is to educate the committee on the NH Hospital Association's (NHHA) position on white and brown bagging.
- When they presented their position on this to the Board of Pharmacy in 2021, they shared patient stories about the negative impacts of brown and white bagging on their treatment and access to care. While these stories are from 2021, they still exist today.
- When these facilities receive white bagged medications for patients, they are responsible for managing and storing them, even though they are not their own inventory.

- In the scenarios when patients cannot use their white bagged medications, it is very costly and concerning. It is then up to the hospital or facility to waste the medication, which is also costly.
- This is putting a huge cost on the system with no patient benefit.
- NHHA believes that brown bagging should be prohibited, as it is not beneficial to anyone in the system.
- NHHA believes that white bagging should be prohibited when dosage and/or compounding are dependent upon the patient's lab results or clinical presentation at the time of administration.
- They believe the only time white bagging should be considered is when quality and safety criteria are met and mutually agreed upon standards are applied, including a joint decision from both the provider and payer that white bagging is in the best interest of the patient or if the medication is a limited distribution drug and only available from certain supply chain channels.
- Ms. Bizarro-Thunberg noted that NHHA would like some time to review the amendment and address anything they may see in the language.
- Senator Rochefort noted that the amendment deals with similar measures passed in Minnesota and asked if Ms. Bizarro-Thunberg is aware of those measures. She said she is not at this time.

Tonya Carlton, New Hampshire Society of Health-System Pharmacists

- Ms. Carlton stated that she has not yet seen the amendment, but she does not believe the legislation as introduced goes far enough.
- In her experience as a pharmacist, Ms. Carlton has seen tens of thousands of dollars' worth of medication go to waste because certain drugs are patient-specific.
- There are some logistical concerns with this practice as well. She explained that sometimes white bagged medications can be left on a loading dock for a period of time, rendering it unusable.
- Ms. Carlton said she would like to review the amendment and see if it goes further with the limitations on white and brown bagging to continue quality and safe care for patients.
- Senator Avard asked what Ms. Carlton's suggestions are without looking at the amendment.
- Ms. Carlton explained that there is model legislation put forth by the American Society of Health-System Pharmacists related to white-bagging.
- She explained that allowing for the use of hospital procured medications to be administered to patients at a lower reimbursement rate may be a step in the right direction. She believes the amendment may address that.

- Senator Rochefort asked what would occur if there was a mistake at the administration site in preparing an infusion drug, since they often must be prepared in a very specific manner.
- Ms. Carlton stated that they always want to do what is right for the patient, so they would replace it with their own drug with the hospital likely taking the loss.
- Senator Rochefort asked what would happen if it was a limited distribution drug.
- Ms. Carlton explained that if they were unable to attain it, the patient would be without their medication.
- Senator Rochefort clarified that if they were in charge of procuring the drug, they could take the appropriate measures to ensure they had enough inventory to account for contingencies.
- Ms. Carlton explained that at her previous place of employment, they needed immense storage space for white bagged drugs. These drugs often do not use the same procurement pathway and would have to be tracked in a paper binder. There are pieces that they are trying to fix, but in the end, it does put patient safety at risk.

Representative Julie Miles, Hillsborough – District 12

- Representative Miles explained that she has over 25 years of experience as an RN. In her experience, she has witnessed first-hand how every minute and every procedural detail can mean the difference between life and death.
- This is why she is in support of this legislation.
- Representative Miles emphasized that patients deserve nothing less than the safest and most reliable care available.
- This legislation ensures that plans use the lowest cost method of reimbursement without sacrificing quality. It guarantees coverage for vital drugs when self-administration is not an option.
- She emphasized that we do not want patients being delivery couriers for their own life saving medications.
- Representative Miles noted that Massachusetts has high standards for specialty drug safety in statute, and Maine has similar measures that have led to demonstrable enhancements in patient outcomes and cost efficiencies.
- She explained that by aligning our practices with these proven models, we can deliver better care in New Hampshire.
- It is imperative that we follow these protocols. These standards are also endorsed by the National Association of Specialty Pharmacy.
- Representative Miles shared a personal story about a family member who was diagnosed with breast cancer. During their treatment, they encountered frustrating delays similar to what has been described in previous testimony.

- If legislation like this had been in place, it could have streamlined their care and potentially eased the burden.
- This bill is not just about saving money. It is about saving lives, and it represents our commitment to quality clinical outcomes, patient safety, and accessible healthcare for all New Hampshire residents.
- Senator Rochefort explained that he believes it may be inappropriate to send these medications to random addresses where it is unknown how the medication will be handled or stored prior to delivery to the hospital. He asked Representative Miles if she shares a similar belief.
- Representative Miles agreed that it is less than ideal. She believes it should only be allowed as an exception if both the physician and patient agree that it is the only way to get the medication to wherever it needs to go to be administered.
- Senator Rochefort inquired about NIOSH drugs and a possible scenario in which they are damaged at delivery and the location does not have proper equipment to contain the mess.
- Representative Miles agreed that there is a myriad of issues with white bagging and the delivery of a drug to a patient's home. She noted that the specific scenario he mentioned would be a biohazard.

John Reynolds, National Federation of Independent Business – NH

- Mr. Reynolds explained that healthcare costs are a top issue for small businesses because it is such an important benefit to offer employees.
- NFIB supports the amendment to this bill.
- It delivers higher value by eliminating wasteful practices, ensures more timely and accurate delivery of drugs, and ensures that patients can get access to these medications when they need them.
- It also guards against higher costs by laying out a process for what is supposed to happen in emergency situations where the drug is administered outside the normal payment parameters.
- Mr. Reynolds addressed Senator Birdsell's earlier question about costs and explained there is an ongoing study by the Employee Benefit Research Institute looking at the cost of clinician-administered drugs in various settings. It found that for 72 of the most common clinician-administered drugs, the cost is 76% higher in a hospital setting than in an outpatient clinical setting.

Commissioner D.J. Bettencourt and Dr. Jason Aziz, New Hampshire Insurance Department

- Commissioner Bettencourt explained that the Department has long had hesitations around legislation that would impede patient or citizen access to lower-cost alternatives.
- He has reviewed the amendment and thinks it is an improvement.

- Commissioner Bettencourt referenced page 2 line 12 and said he believes the concern is with the cost of the drug, not the fee going to the health care provider. He recommends a change in language to ensure it is capturing what he believes the intent is. He is happy to work with Senator McGough.
- The fundamental principle of a free-market system is choice. The Department is concerned when seeing measures that would seek to curtail practices such as brown bagging because they feel it takes away choice.
- Commissioner Bettencourt emphasized that he appreciates the intent behind this legislation to improve patient care. The Department fears that it has the unintended consequence of potentially disrupting the healthcare system.
- Senator Rochefort said he would appreciate an updated fiscal note, and Commissioner Bettencourt agreed.
- Senator Rochefort asked what kind of choice a patient has in brown bagging.
- Dr. Aziz referenced section 3 of the amendment and explained this adds an extra barrier for the patient to have the choice to access a lower-cost alternative to expensive medical therapy.
- The Department appreciates the fact that not all pharmacologic therapies are amenable to brown bagging, nor safe or efficacious. Across the continuum of pharmacologic therapies, there are safe and cost-effective options that should be of easy avail to the patient or provider.

Curtis J. Barry, Pharmaceutical Care Management Association

- Mr. Barry stated that he signed in opposed to the bill as introduced and will be speaking specifically to the bill as introduced.
- He referenced lines 19-21 and pointed out two issues with these lines.
- He explained that it is recognizing the hospital reimbursement under the medical plan versus the prescription drug plan.
- He thinks the way this is written undermines the ability for a plan to use a preferred provider network.
- Mr. Barry believes this is fixed in the amendment, but emphasized its importance because there are a number of studies that demonstrate the cost markup that hospitals provide for infused drugs.
- Mr. Barry referenced material from the State Employee Plan submitted to the committee. He explained that it acknowledges that white bagging is a cost savings measure based upon what the reimbursement levels are.
- Mr. Barry stated that PCMA is comfortable with the amendment as presented by Senator McGough.

SW

Date Hearing Report completed: February 17, 2025