

# **WEST VIRGINIA LEGISLATURE**

## **2022 REGULAR SESSION**

### **Introduced**

## **House Bill 4263**

BY DELEGATES ROHRBACH, REED, TULLY, PACK, G.

WARD, BATES, D. JEFFRIES, ROWAN, FORSHT, AND

MALLOW

[Introduced January 19, 2022; Referred to the  
Committee on Health and Human Resources]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §33-61-1, all relating to prohibiting certain actions.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 61. PROTECTING PATIENT ACCESS TO PHYSICIAN-ADMINISTERED  
MEDICATIONS.**

**§33-61-1. PROTECTING PATIENT ACCESS TO PHYSICIAN-ADMINISTERED  
MEDICATIONS.**

1 (a) The following words shall have the following meanings:

2 “Covered individual” means the same as §33-51-3.

3 “Physician-administered drug” means any prescription drug, other than a vaccine, that  
4 required administration by a provider and is not approved as a self-administered drug.

5 (b) A health insurance issuer, pharmacy benefit manager, or their agent may not refuse  
6 to authorize, approve, or pay a participating provider for providing covered physician-administered  
7 drugs and related services to covered persons.

8 (c) A health insurance issuer shall not condition, deny, restrict, refuse to authorize or  
9 approve, or reduce payment to a participating provider for a physician-administered drug when  
10 all criteria for medical necessity are met, because the participating provider obtains physician-  
11 administered drugs from a pharmacy that is not a participating provider in the health insurance  
12 issuer's network. The drug supplied shall meet the supply chain security controls and chain of  
13 distribution set by the federal Drug Supply Chain Security Act, 29 Pub. L. 113-54, as amended.  
14 The payment shall be at the rate set forth in the health insurance issuer’s agreement with the  
15 participating provider applicable to such drugs, or if no such rate is included in the agreement,  
16 then at the wholesale acquisition cost.

17 (d) A health insurance issuer, pharmacy benefit manager, or their agent, may not require  
18 a covered person to pay an additional fee, or any other increased cost-sharing amount in addition

19 to applicable cost sharing amounts payable by the covered person as designated within the  
20 benefit plan to obtain the physician-administered drug when provided by a participating provider.

21 (e) Nothing in this section may:

22 (1) Prohibit a health insurance issuer or its agent from establishing differing copayments  
23 or other cost-sharing amounts within the benefit plan for covered persons who acquire physician-  
24 administered drugs from other providers.

25 (2) Prohibit a health insurance issuer or its agent from refusing to authorize or approve, or  
26 from denying coverage of a physician-administered drug based upon failure to satisfy medical  
27 necessity criteria. The location of receiving the physician-administered drug shall not be included  
28 in the medical necessity criteria.

29 (3) Prohibit a health insurance issuer from establishing specialty care centers of  
30 excellence based on nationally established, objective quality measures, to be utilized by covered  
31 persons focused on specific drugs or types of drugs to impact the safety, quality, affordability, and  
32 expertise of treatment.

33 (f) The commission of any act prohibited by this section shall be considered an unfair  
34 method of competition and unfair practice or act which shall subject the violator to any and all  
35 actions, including investigative demands, private actions, remedies, and penalties, provided for in  
36 the Unfair Trade Practices and Consumer Protection Law.

37 (g) Any provision of a contract that is contrary to any provision of this section shall be null,  
38 void, and unenforceable in this state.

NOTE: The purpose of this bill is to prohibit the practice of white bagging.

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