



State Law Chart: Brown & White Bagging

Last update: January 11, 2024

State	Summary
Delaware <u>24 Del. Admin. Code 2500-5.1.5.1 and 5.1.5.2</u> <i>Effective October 11, 2023</i>	<p>Prohibits a pharmacy, pharmacist, or pharmacy student from delivering or dispensing drugs to a patient's residence where such drugs are intended to be later transported to another location for administration and that require special storage, reconstitution or compounding prior to administration. Allows an exception for patients with inherited bleeding disorders that may require therapy to prevent or treat bleeding episodes.</p> <p>Prohibits a patient-specific compounded preparation from being delivered to a practitioner's office or infusion center for administration unless there is a written agreement between the dispensing pharmacist and the ordering physician/facility determining that the delivery arrangement is in the best interest of the patient. Requires any written agreement or contract to include the procedures of delivery and the responsibilities of all parties involved in the delivery.</p>
Florida <u>SB 1550</u> <i>Effective July 1, 2023</i>	<p>Adds to the list of providers to whom a PBM must offer a contract for physician-administered drugs to include organ transplant hospitals, regardless of geographic service area, specialty children's hospitals, and regional perinatal intensive care centers. Such contracts are solely for the administration or dispensing of covered prescription drugs.</p> <p>Prohibits requiring patients to receive physician-administered drugs from an affiliate pharmacy</p> <p>Prohibits offering a promotional item or incentive to a covered person to incent them to use an affiliated pharmacy for physician-administered drugs.</p> <ul style="list-style-type: none">• Defines "incentive" as anything other than a reduced cost-sharing amount or enhanced quantity limit allowed under the benefit design for a covered drug.
Georgia <u>Directive 22-EX-5</u> <i>August 30, 2022</i> <u>Directive 22-EX-6</u> <i>October 17, 2022</i>	<p>Prohibits health plans from engaging in the practice of white bagging at:</p> <ul style="list-style-type: none">• any hospital in the state designated as a "Critical Access Hospital" by the Centers for Medicare & Medicaid Services;• any hospital not designated as a Critical Access Hospital but that is located 30 miles or more from another hospital; and• any hospital the Georgia Department of Community Health has qualified as being eligible for the Georgia HEART program. <p>Allows health plans to notify a patient that they may receive savings from utilizing the practice of white bagging.</p>

Note: Other states have broader specialty pharmacy, patient steering, or mail order laws that a state may interpret to regulate the practice of white or brown bagging. Those laws are not included in this chart

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<p>Louisiana <u>RS 22:1020.51, 52, 53</u> <i>Effective June 1, 2021</i></p>	<p>"Participating provider" includes any clinic, hospital outpatient department, or pharmacy under the common ownership or control of the participating provider.</p> <p>Prohibits a health insurer, PBM, or their agent from refusing to authorize, approve, or pay a participating provider for providing covered physician-administered drugs and related services to covered persons.</p> <p>Prohibits a health insurer from conditioning, denying, restricting, refusing to authorize or approve, or reducing payment to a participating provider for a physician-administered drug when all medical necessity criteria are met, because the participating provider obtains physician-administered drugs from a pharmacy that is not a participating provider in the insurer's network. Prohibits location of receiving the physician-administered from being included in the medical necessity criteria</p> <p>Requires payment to be at the rate set forth in the health insurance issuer's agreement with the participating provider applicable to such drugs; if no such rate is included in the agreement, then at the WAC.</p> <p>Prohibits insurer from requiring a covered person to pay an additional fee or an increased cost-sharing amount in addition to applicable in-network cost-sharing amounts. Allows insurer to establish differing cost-sharing amounts for covered persons who acquire physician-administered drugs from other providers.</p>
<p>New Mexico <u>SB 51</u> <i>Effective January 1, 2024</i></p>	<p>Prohibits carriers from charging a different cost-sharing amount for prescription drugs or pharmacy services obtained at a non-affiliated pharmacy or the administration of prescription drugs at different infusion sites.</p>
<p>North Dakota <u>SB 2378</u> <i>Effective August 1, 2023</i></p>	<p>Prohibits PBMs or third-party payers from limiting or excluding the availability of a clinician-administered drug, including by:</p> <ul style="list-style-type: none"> • interfering with a patient's choice to obtain a clinician-administered drug from the patient's provider of choice; • conditioning, denying, restricting, or reducing payment to a participating provider for a clinician-administered drug if all criteria for medical necessity are met, because the participating provider did not obtain clinician-administered drugs from a mail-order pharmacy or pharmacy benefits manager affiliate; dispensing a clinician-administered drug directly to the patient with the expectation or intention that the patient will transport the medication to a health care setting for administration by a participating provider; or • requiring the use of a home infusion for a clinician-administered drug. <p>Also includes broader mail order restriction provisions.</p>

State	Summary
Ohio <u>R.C. § 4729.43</u> <i>Amended September 30, 2021</i>	<p>Prevents pharmacists from dispensing by delivering directly to a patient/patient's representative any dangerous drug that is indicated for the treatment of cancer or a cancer-related illness, which must be administered intravenously or by subcutaneous injection, and cannot reasonably be self-administered by the patient or by an individual assisting the patient with the self-administration.</p> <p>Exempts patients residing in certain residential care facilities and certain hospice patients or home health agency clients.</p>
Texas <u>HB 1647</u> <i>Effective September 1, 2023</i>	<p>For an enrollee with a chronic, complex, rare, or life-threatening condition, prohibits issuers from:</p> <ul style="list-style-type: none"> • requiring clinician-administered drugs to be dispensed by only by in-network pharmacies; • if a clinician-administered drug is otherwise covered, limiting or excluding coverage for such drugs when not dispensed by an in-network pharmacy; • requiring a participating provider to bill for delivery and administration of clinician-administered drugs under the pharmacy benefit instead of the medical benefit without informed written consent of the patient, and a written attestation that a delay in the drug's administration will not place the patient at an increased health risk; or • requiring that an enrollee pay an additional fee, higher copay, higher coinsurance, second copay, second coinsurance, or any other form of price increase for clinician-administered drugs when not dispensed by a network. <p>Applies those provisions only if the physician or provider determines that:</p> <ul style="list-style-type: none"> • delay of care would make disease progression probable; or • the use of a network pharmacy would make death or patient harm probable or cause a barrier to compliance, or • timeliness of the delivery or dosage requirements, necessitate delivery by a different pharmacy.
Utah <u>SB 193</u> <i>Effective May 3, 2023</i>	<p>Prohibits a health insurer from requiring a pharmacy to dispense a clinician-administered drug directly to an enrollee with the intention that the enrollee will transport the drug to a provider for administering.</p>
Vermont <u>8 V.S.A. § 4089j(d)(3-5)</u>	<p>Prohibits an insurer or PBM from:</p>

State	Summary
<p><i>Amended January 1, 2023</i></p>	<ul style="list-style-type: none"> • requiring a designated pharmacy to dispense a medication directly to a patient with the expectation or intent that the patient transport it to a health care setting for administration or • requiring a designated pharmacy to dispense a medication directly to a health care setting for administration. <p>Exempts Medicaid.</p>
<p>Virginia <u>18 VAC 110-20-275</u> <i>Amended June 9, 2021</i></p>	<p>Prohibits prescription drug orders for Schedule II through Schedule V controlled substances from being delivered to an alternate delivery location unless such delivery is authorized by federal law and regulations of the Board of Pharmacy.</p> <p>Establishes standards when one pharmacy fills prescriptions and delivers the prescriptions to a second pharmacy for patient pickup or direct delivery to the patient.</p> <p>Allows white bagging if there is a written contract or agreement between the pharmacy and provider describing the procedures for such a delivery system and the responsibilities of each party.</p> <p>Prohibits pharmacies from delivering dispensed drugs to a patient's residence that are intended to be subsequently transported by the patient/patient's agent to a hospital, medical clinic, prescriber's office, or pharmacy for administration. Applies to drugs that require special storage, reconstitution or compounding prior to administration. Allows an exception to this requirement for patients with inherited bleeding disorders who may require therapy to prevent or treat bleeding episodes.</p>