June 8, 2022

The Honorable Jim Wood, DDS
Chair, Assembly Health Committee
1020 N St., Suite 390
Sacramento, CA 95814

Subject: SB 958 (Limón and Portantino) — SPONSOR

Dear Chair Wood:

California's hospitals, health systems, and health system pharmacists are committed to the safe and timely delivery of life-saving medications for their patients. Unfortunately, a recent change in third-party payer practices jeopardizes Californians' health, safety, and well-being by restricting timely access to critical medications — and placing health plans and insurers and their third-party vendors between patients and providers.

Patient stories of delayed care, frustration from providers who find it difficult to secure the most appropriate drug for their patients, and the increased costs to providers to receive, verify, and manage drugs sent from a third-party vendor are driving a nationwide effort to address this pressing issue. Louisiana has banned the practice outright, two other states have passed legislation to strengthen oversight, and eight other states actively are considering legislation to limit its inappropriate use. In California, one health plan was issued an injunction to stop it from using white bagging with one of its network hospitals due to the clear and documented harm to patients and provider burden created by the plan's policy.

To address these concerns, the California Hospital Association (CHA) and the California Society of Health-System Pharmacists (CSHP) are proud to sponsor **Senate Bill (SB) 958**, which would prevent health plans and insurers from mandating the use of third-party vendors for specialty medications. Under this practice, known as "white bagging," health plans and insurers mandate that provider-administered medications must be delivered by offsite, third-party vendors to providers on a patient-by-patient basis — prior to the drugs being infused or injected. While SB 958 would not prohibit this practice, it provides a framework for when white bagging is appropriate and for ensuring patient safety and medication integrity.

Specialty medications are used to treat serious and life-threatening illnesses like cancer, Crohn's disease, HIV/AIDS, and multiple sclerosis. Vulnerable patients with complex diagnoses and their providers should feel confident that medications will be available when their appointments are scheduled, and that they have been safely stored and handled. Health care providers keep these specialty medications in stock —

so that they are available in the form and dose whenever needed by a patient. White bagging policies have shown to result in delays in treatment when medications are not delivered in a timely manner, have been improperly handled and cannot be administered, or must be re-ordered because of changes due to the patient's same-day assessment, sometimes from a pharmacy thousands of miles away. In one case, a patient with brain cancer and melanoma had a one-week delay in treatment while waiting for their white-bagged medication to arrive, leading their doctor to switch their treatment plan to a medication that did not have to be infused to avoid further delay. Unfortunately, this is just one example of how a patient's treatment was delayed because of white bagging policies. These delays in treatment cause patients distress, leave their health care conditions unchecked, and result in entirely preventable disease progression for life-threatening diseases like cancer where treatment is urgent. As we know all too well, every single day is critical and can mean the difference between life and death.

Beyond the poor patient care that results from white bagging, this policy often generates medication waste and creates additional operational processes that divert providers from what they do best — direct patient care. When medications show signs of improper handling or are not suited to the patient's same-day clinical needs, they must be discarded and re-ordered. To safeguard the integrity of the medications they keep in stock, providers have policies and procedures in place that secure their acquisition, storage, and subsequent administration. This also allows them to manage inventory, monitor dispensing, compounding, and dosing, and ensure proper preparation and storage of drugs from purchase through administration. In contrast, white bagging removes providers from the process of acquiring and managing medications, and instead places this responsibility with health plans and their vendors, whose processes and procedures are inconsistent and often at odds with providers' well-established practices. Not only does this increase the opportunity for error, but providers have also reported having to create distinct inventory management systems, purchase additional refrigeration systems, and forego patient safety protocols such as electronically matching medications to their intended recipients.

Health plans and insurers allege that white bagging creates health care savings by allowing them to avoid paying for medications supplied by providers, who they claim mark up the price of these drugs. Besides side-stepping the harm to patients and avoiding discussion of whether any purported savings from white bagging ever reach the patient, this line of argument is misleading. Health plans and insurers pay negotiated reimbursement rates agreed to by the health plans and insurers and the hospitals. When they point to markups on these reimbursement rates, they are criticizing rates they have already agreed are reasonable for the purpose of ensuring access to specialty medications for their members. Moreover, they rely on skewed samples that overstate provider markups and ignore the financial losses that hospitals and other providers experience on many of their lines of service due to insufficient reimbursement, especially from non-commercial payers.

Their data on markups regularly include hospitals participating in 340B, a federal program that provides deep discounts on medications to help not-for-profit health care providers who care for medically complex patients and the underserved. When 340B medications are reimbursed at industry standard rates, their markups naturally appear high due to the upfront discounts that eligible providers receive when acquiring the drugs. But this is the very purpose of the 340B program — to enable participating, not-for-profit health care providers "to stretch scarce federal resources as far as possible, reaching more eligible patients and providing more comprehensive services." In other words, hospitals are reinvesting the difference between what they are paid and the costs of acquiring medication into care for their patients. With 51% of California's hospitals currently in the red and facing an uncertain future due to

rising operating costs and stagnant reimbursement, it's clear evidence that their overall packages of reimbursement rates are not enough to even cover their costs for many hospitals.

What's more, health plans and insurers ignore the increased costs for hospitals and physicians' offices to manage white bagged medications on a patient-by-patient basis, which cancels much of these purported savings. A recent, nationwide estimate placed higher provider administrative costs from white bagging at over $300 million annually. On top of creating new challenges with managing the physical inventory of white bagged medications, providers have to divert scarce time away from patient care to coordinate with an expanded set of parties such as pharmacy benefit managers and third-party pharmacy vendors to ensure coverage of these medications and their timely and accurate delivery. Waste from mishandled and incorrectly dosed medications only adds to these costs. **Accounting for the real patient costs of delayed care, disease progression, and preventable hospitalizations ultimately outweighs and cancels any remaining savings to the health care system.**

SB 958 would protect California patients by preventing delayed or suboptimal care, patient distress, and unnecessary hospital admissions by ensuring that patients have timely access to safe medications. For these reasons, CHA and CSHP request your "AYE" vote on SB 958 when it comes before your committee.

Sincerely,

Kathryn Austin Scott
Senior Vice President, State Relations & Advocacy
California Hospital Association

Loriann De Martini, PharmD, MPH, BCGP
CEO
California Society of Health-System Pharmacists

cc: The Honorable Bill Dodd
Members of the Assembly Health Committee
Kristene Mapile, Consultant, Assembly Health Committee
Gino Folchi, Consultant, Assembly Republican Caucus