



## HOUSE BILL 451 – WHITE BAGGING

### OHIO HOUSE INSURANCE COMMITTEE

MARCH 23, 2022

Chairman Brinkman, Vice-Chair Lampton, Ranking-Member Miranda, and members of the Ohio House Insurance Committee, thank you for the opportunity to provide testimony on House Bill 451, legislation that places limits on health insurance plans utilizing a practice known as white bagging. My name is Chris Ferruso and I serve as Legislative Director for NFIB in Ohio. NFIB has some concerns with the legislation as currently drafted, specifically that costs to our members' health insurance premiums will likely increase if the bill were to pass as currently drafted.

By way of background, NFIB members come from all industry sectors in all 88 counties across Ohio. Our typical member employs 15 or fewer and has less than \$2 million in gross receipts. The diversity of our membership runs the spectrum of business operations from sole-proprietors operating out of their homes to large manufacturers that employ hundreds.

I want to explain to the committee why health insurance is such an important policy area for our members. The NFIB Research Foundation conducts a quadrennial survey of our members called *Problems & Priorities*. This survey asks our members to score a list of 75 different business issues, ranking from most impactful to least impactful to their operations. The closer to number 1, the bigger the impediment or impact. Since 1986, the “cost of health insurance” has been the top concern amongst our members. In fact, 47.4 percent of our members indicate it is a “critical” concern.<sup>1</sup>

Since 2011, the cost of coverage for family plans for small firms has increased by 45 percent.<sup>2</sup> This increase has doubled the rate of inflation according to the Bureau of Labor Statistics CPI inflation calculator. When you couple this with the number of small firms (3-49 workers) that offer healthcare coverage (53%) vs. those with 50 or more employees (94%)<sup>3</sup> this confirms our survey.

As all of you know, we are experiencing a very tight labor market. Forty-nine percent of our members tell us they are unable to fill open positions. Our members continue to respond to this issue, including 44 percent who have indicated raising compensation this year, a 48-year record high!<sup>4</sup> In addition to

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<sup>1</sup> <https://assets.nfib.com/nfibcom/NFIB-Problems-and-Priorities-2020.pdf>

<sup>2</sup> <https://www.kff.org/report-section/ehbs-2020-section-1-cost-of-health-insurance/>

<sup>3</sup> <https://www.kff.org/report-section/ehbs-2020-section-2-health-benefits-offer-rates/>

<sup>4</sup> <https://www.nfib.com/surveys/small-business-economic-trends/>

compensation, our members do their best to put together a competitive benefits package, including health insurance. However, it is a challenge. It is even more challenging when policymakers enact policies that put upward pressure on health insurance premiums.

The large majority of NFIB members that are able to provide health insurance purchase their plans in the fully-insured market as they are not able to assume the risk associated with self-insuring. These fully-insured plans are provided by the carriers authorized by the Ohio Department of Insurance to write policies in Ohio. Think of these products as off-the-shelf, containing all the federal and state-imposed health insurance mandates. Please note, there is a significant distinction between the fully-insured plans and the self-insured plans. While all plans must cover the federal mandates, state health insurance mandates do not apply to self-insured plans as they are exempt under federal ERISA law. We believe House Bill 451 does not apply to self-insured ERISA plans.

NFIB has historically opposed health insurance mandates. We recognize, understand, and appreciate the position of proponents of these mandates. Our opposition generally centers on two primary factors: equity and cost. The reality is there will be significant gaps in private-sector coverage as two-thirds of private-sector plans are self-insured,<sup>5</sup> thus exempt. While House Bill 451 does not mandate coverage of a condition or provider, it does limit a practice utilized by health insurance plans implemented to try and keep down costs. I give this background to help explain to the committee why our organization is so sensitive to legislation that may drive up the cost of health insurance.

Proponents indicate white bagging restricts the ability to adjust medication doses causing patients to have to return for treatment when a new dose is received, spend more time away from work and in a clinical setting, and waste doses of expensive drugs as they cannot be given to anyone other than the patient indicated on the label. Opponents of the bill believe House Bill 451 will lead to increased costs as the bill restricts cost-sharing and tiering of drugs or medications, and prohibits limiting or excluding coverage when a drug is dispensed by someone other than a plan-affiliated pharmacy, potentially allowing for providers to bill and be reimbursed a higher price than what a health plan has negotiated for a drug. We share the concerns of both sides.

Our members of course care about the health of their employees. Any adverse occurrences cause employees to be out of work longer or more frequently, not to mention the toll it takes on the employee's health and their family. However, let's be clear, at the end of the day, if House Bill 451 passes as it currently stands providers will be paid, patients will see little if any disruption in their out-of-pocket expenses and the health plans will eventually recoup their costs. That leaves one party left to ultimately foot the bill; plan purchasers, our members. The LSC fiscal note indicates the bill may increase costs to the state and local governments to provide health benefits to their employees and their dependents. The same will hold true for our members.

We believe there may be a middle ground. We suggest the committee evaluate utilizing the health plans negotiated price on pharmaceuticals as the basis for reimbursement and allowance for utilization of provider dispensed drugs when there is a medically necessary needed change in dosage. Understanding patient safety concerns are paramount, while also balancing the need to appropriately

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<sup>5</sup> <https://www.kff.org/report-section/ehbs-2020-section-10-plan-funding/>

manage costs, these suggestions would hopefully bring both sides in this process closer to an agreement.

We hope a reasonable compromise can be achieved on House Bill 451. One that does not end with our members ultimately paying more for health insurance. We believe there is a middle ground and we look forward to working with the sponsors, proponents, and opponents to achieve this goal. Thank you Mr. Chairman and members of the committee, I would be happy to try and address any questions.