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PERMANENT ADMINISTRATIVE ORDER

PDAB 2-2022

CHAPTER 925

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

PRESCRIPTION DRUG AFFORDABILITY BOARD

FILED

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ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Model Rules for Rulemaking and Public Records Requests

EFFECTIVE DATE: 12/23/2022

AGENCY APPROVED DATE: 11/28/2022

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Rules Coordinator

RULES:

925-100-0001, 925-100-0002, 925-100-0003

ADOPT: 925-100-0001

REPEAL: Temporary 925-100-0001 from PDAB 1-2022

RULE TITLE: Model Rules for Rulemaking

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: Provides a legal framework for the Prescription Drug Affordability Board (PDAB) to engage in rulemaking as authorized by SB 844 (2021), consistent with authorities granted under ORS 183.341.

RULE TEXT:

The Model Rules for Rulemaking, OAR 137-001-0005 through 137-001-0100, in effect on Jan. 1, 2008, adopted by the Oregon Department of Justice under ORS 183.341, are adopted as the rules of procedure for rulemaking actions of the Prescription Drug Affordability Board. The full text of the Model Rules is available from the Department of Justice, the Prescription Drug Affordability Board, or on the Oregon State Archives website at: <https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=291164>.

STATUTORY/OTHER AUTHORITY: ORS 646A.693 - 646A.697

STATUTES/OTHER IMPLEMENTED: ORS 183.325 - 183.410

ADOPT: 925-100-0002

REPEAL: Temporary 925-100-0002 from PDAB 1-2022

RULE TITLE: Notice of Rulemaking

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: Defines requirements for notification of rulemaking by the PDAB.

RULE TEXT:

(1) Except when adopting a temporary rule, the Prescription Drug Affordability Board will give prior public notice of the proposed adoption, amendment, or repeal of any rule by:

(a) Publishing notice of the proposed rulemaking action in the Secretary of State's Oregon Bulletin at least 21 days before the effective date of the rule;

(b) Notifying interested people and organizations on the Prescription Drug Affordability Board's notification lists of proposed rulemaking actions under ORS 183.335; and

(c) Providing notice to legislators as required by ORS 183.335(15).

(2) A person or organization may elect to receive email or hard-copy notification of proposed rulemaking actions of the Prescription Drug Affordability Board.

(a) A person or organization may elect to subscribe to the Prescription Drug Affordability Board's email notification service at: https://public.govdelivery.com/accounts/ORDCBS/subscriber/new?topic_id=ORDCBS_732.

(b) A person or organization may elect to receive hard-copy notification by sending a request in writing, including the person or organization's full name and mailing address, to the following address:

Rules Coordinator

Prescription Drug Affordability Board

350 Winter St. NE

P.O. Box 14480

Salem, OR 97309-0405

STATUTORY/OTHER AUTHORITY: ORS 646A.693 - 646A.697

STATUTES/OTHER IMPLEMENTED: ORS 183.335, ORS 84.022

ADOPT: 925-100-0003

REPEAL: Temporary 925-100-0003 from PDAB 1-2022

RULE TITLE: Public Records Requests

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: Adopts requirements found in Oregon's Public Records Law (ORS 192) into PDAB rules.

RULE TEXT:

- (1) Oregon's Public Records Law (ORS 192) provides that every person has a right to inspect any public records of a public body, except records that are exempt from disclosure.
- (2) A public record request may be submitted in person, by U.S. Mail, fax or by email to the Prescription Drug Affordability Board (Board). The written request must include:
 - (a) The name and address of the person requesting the public record;
 - (b) The telephone number or other contact information of the person requesting the public record;
 - (c) A sufficiently detailed description of the record(s) requested to allow the Board to search for and identify responsive records; and the
 - (d) Date and signature of the person requesting the public record.
- (3) Public records, except those exempt from disclosure, will be made available upon request for review and copies will be provided at a fee reasonably calculated.
- (4) The Oregon Public Records Law allows agencies to recover their actual costs in fulfilling a public records request including actual costs for supplies, research, compilation, postage, shipping and staff time.
- (5) Fees will be payable prior to fulfilling a public records request. If the fee is estimated to be greater than \$25:
 - (a) The Board staff will provide the requestor with a written notice of the estimated amount of the fee.
 - (b) The public records request will not be fulfilled until the requestor confirms in writing that the requestor wants to proceed with the request.
- (6) Standard fees for Public Records:
 - (a) Per page fees reflect current Oregon Department of Administrative Services policy;
 - (b) \$5.00 for each true notarized certification;
 - (c) Other applicable fees: actual costs or best estimate of costs; and
 - (d) Miscellaneous fees may include archive retrieval costs, costs of software companies/contracts; other third party costs.
 - (e) No charge for the first 30 minutes of staff time for processing request. The hourly rate charged for additional staff time is based on the level of skill or expertise required to complete the work performed not the employee-level of the individual actually fulfilling the request.
 - (f) Clerical labor charges are \$25.00 per hour; Managerial labor charges are \$40 per hour; Professional (IT, HR, high-level Analyst) \$75.00 per hour; and DOJ, special attorney and other applicable legal fees: at the actual hourly rate charged for Public Records Request-related services. Fees are subject to statutory limitation described in ORS 192.324.
- (7) The Board may furnish copies of public information without charge or at a reduced fee if it is determined that the waiver or reduction of fees is in the public interest because providing access primarily benefits the general public under ORS 192.324.
- (8) A person desiring a waiver or reduction in fees must submit a written request for a waiver.
- (9) The Board Executive Director will consider each request on a case-by-case basis based on the information provided by the requestor and the totality of the circumstance at the time of the request.
- (10) The Board Executive Director will make fee waiver or reduction decisions based on the guidelines outlined in the Oregon Department of Administrative Services Statewide Standardized Fee Process.

STATUTORY/OTHER AUTHORITY: ORS 646A.693 - 646A.697

STATUTES/OTHER IMPLEMENTED: ORS 192.324

