



Associated Oregon Industries

1149 Court Street NE  
Salem, OR 97301-4030

Telephone: 503.588.0050  
Portland: 503.227.5636  
Statewide: 800.452.7862  
Fax: 503.588.0052

[www.aoi.org](http://www.aoi.org)

January 20, 2016

Ms. Jeannette Holman  
Senior Policy Analyst  
DCBS/Division of Financial Regulation  
350 Winter Street NE  
Salem, OR 97301

Sent Via Email: [ins.rules@oregon.gov](mailto:ins.rules@oregon.gov); [jeannette.holman@oregon.gov](mailto:jeannette.holman@oregon.gov)

**Subject:** Proposed Amendment to OAR 836-053-0012

Dear Ms. Holman:

On behalf of Oregon Associated Industries' members, many of whom purchase health benefits for their employees and their employees' families, we urge the Oregon Insurance Division to reject the proposed amendment to OAR 836-053-0012, which appears at the top of page 16 in DCBS' proposed rules:

**(8) An insurer that issues a small group or individual health benefit plan formulary does not comply with the nondiscrimination requirements of OAR 836-053-0012 if most or all drugs to treat a specific condition are placed on the highest cost tiers.**

**(9) A health benefit plan providing essential health benefits must have procedures in place that allow an enrollee to request and gain access to clinically appropriate drugs not covered by the health plan.**

These provisions would unduly interfere with health plans' ability to manage drug formularies based on both cost and clinical criteria. We believe that as a consequence, this rule would result in even greater increases in drug costs than already being experienced by employers.

Instead of restricting formulary management, DCBS should allow health plans to take a variety of approaches to formulary management, within the requirements of the Affordable Care Act.

Thank you for your consideration.

**Betsy Earls**  
Vice President & Counsel

**OFFICERS**

- Chairman of the Board  
R. PATRICK REITEN  
Pacific Power
- President & CEO  
JAY M. CLEMENS  
Associated Oregon Industries
- First Vice-Chair  
SCOTT N. PARRISH  
A-dec, Inc.
- Treasurer  
THOMAS J. CORRY  
Bank of America Merrill Lynch
- Secretary  
MARGARET D. KIRKPATRICK  
NW Natural
- Immediate Past Chair  
NEIL J. NELSON  
Siltronic Corporation

**EXECUTIVE COMMITTEE**

- JON E. BLADINE  
Oregon Lithoprint, Inc.
- CARMEN M. CALZACORTA  
Schwabe, Williamson & Wyatt, PC
- KEVIN B. DULL  
Kaiser Permanente
- ROBERT T. FRERES, JR.  
Freres Lumber Co. Inc.
- DAN D. HARMON  
Hoffman Corporation
- SCOTT A. HIBBS\*  
The Standard
- JACK ISSELMANN  
The Greenbrier Companies
- PATRICK C. McCORMICK  
AM:PM PR, LLC
- GREGORY A. MILLER\*  
Weyerhaeuser Company
- WILLIAM O. NICHOLSON\*  
Portland General Electric
- JON V. OWENS  
ESCO Corporation
- TIMOTHY C. PHILLIPS  
Phillips & Company
- C. JEANNE STATON  
Staton Companies
- CHIP A. TERHUNE  
Regence BlueCross BlueShield of Oregon
- ALAN J. THAYER, JR. \*  
Innovative Law Group
- DANIEL C. THORNDIKE \*  
Medford Fabrication
- KAREN L. VINEYARD  
Wells Fargo
- HOWARD D. WERTH  
Leupold & Stevens, Inc.

\*District Vice Chair