Oregon Prescription Drug Affordability Board

Oregon Prescription Drug Affordability Board (PDAB) Meeting
Wednesday, May 17, 2023
Minutes
Approved by the board on June 21, 2023

Chair Akil Patterson called the meeting to order at 9:32 am and asked for the roll call.

Board members present: Chair Akil Patterson, Vice Chair Shelley Bailey, Dr. Amy Burns, John Murray (alternate), Dr. Rebecca Spain (alternate)
Board members absent: Dr. Richard Bruno, Dr. Daniel Hartung, Robert Judge (alternate), all excused

Chair Patterson appointed alternates John Murray and Rebecca Spain to vote in today's meeting due to board member absences.

Approval of the minutes: Chair Akil Patterson asked if board members had any changes to the April 19, 2023, minutes on Pages 3-5 in the agenda packet: https://dfr.oregon.gov/pdab/Documents/20230517-PDAB-document-package.pdf and there were none. **Vice Chair Shelley Bailey** moved to approve the minutes and **John Murray** provided a second.

MOTION by Shelley Bailey to approve the April 19, 2023 minutes.
Board Voice Vote:
Yea: Amy Burns, John Murray, Rebecca Spain, Shelley Bailey, Akil Patterson
Nay: None.
Motion passed.

Program update: Executive Director Ralph Magrish introduced Brekke Berg, PDAB's new policy analyst. Staff will soon award a contract to Harvard's Program on Regulation Therapeutics and Law (PORTAL), the group that presented to the board in February. In June, T1International will present to the board about diabetes. In July, the OHA's Oregon Cost Growth Target program director will speak to the board about their annual report, which is relevant to the board's upcoming work with affordability reviews. Staff may pause scheduling of presentations when the board begins working on affordability reviews and the 2023 report for the Legislature. The board may schedule an informational meeting in between board meetings. An agenda item was added today: Jesse O'Brien, policy manager with the Division of Financial Regulation, will provide a legislative update.

John Murray said he needed to let Chair Patterson know, under advisement of the Oregon Ethics Commission, he must declare a potential conflict of interest as the owner of Murray Drugs. Inc., comprised of three independent pharmacies in Eastern Oregon. They have pharmacy services contracts with PBM and insurance companies in Oregon. He said the ethics commission determined there could be a potential conflict of interest when PDAB discusses specific drugs or related matters. **Chair Patterson** thanked John Murray and said he and Ralph Magrish would have a meeting with counsel to discuss the declaration.

Legislative Update: Jesse O'Brien, policy manager for the Division of Financial Regulation, reviewed the document on Pages 7-8 of the agenda packet for the board.

Sean Dickson, senior vice president of pharmaceutical policy and strategy, America's Health Insurance Plans (AHIP), presented on the insurance carrier perspective of high drug costs (Pages 9-22 in the agenda document).

He provided recommendations shown on Page 20: accelerate the availability of biosimilars; reform the system for provider-acquired drugs; and address drug manufacturers' abuse of charitable structures. He discussed federal solutions for prescription drug affordability on Page 21.

Amy Burns said the cycle for rebates and rebate collection can be as much as two years, whereas, plan years are 12 months. Generated rebates will not come back into health insurance coffers until the next year, which is a whole new plan year. If that savings is passed on to everyone and people move in and out of plans, how do those savings compare to savings at the point of sale? **Sean Dickson** said his understanding is that rebates are happening more frequently. The important part is the net price after rebates is being factored into the overall actuarial value of the structure of the plan design.

John Murray asked about the recommendation to limit use to specialty pharmacies. His concern is that specialty pharmacies are more expensive. **Sean Dickson** said he was talking about physician-administered drugs and having the drugs delivered to the hospital by the specialty pharmacy. This will help avoid the hospital mark ups on the drugs, which can be as high as 120 percent. By comparison, physician-owned offices are marking up drugs 8-10 percent. **Rebecca Spain** asked if the markup was on the drugs only, not on the infusion costs. **Sean Dickson** said he is referring to the ingredient cost of the drug from the specialty pharmacy compared to the amount the hospital bills for that same product if they bought it themselves. He said hospitals charge commercial insurance higher amounts than what they charge Medicare and Medicaid. **Shelley Bailey** said, as far as drug costs, the board will be looking at the wholesale acquisition cost (WAC) in its reports. She asked about an ASP + plus crosswalk to the WAC minus to help the board evaluate drugs that are outpatient administered. **Sean Dickson** said they use data from a commercial claim data base. They look at paid amounts within commercial markets, what plans reimburse specialty pharmacies for this drug ingredient, compared to what they reimburse hospitals and independent provider offices. There is a study comparing this data to ASP + located here: https://www.ahip.org/resources/markups-for-drugs-cost-patients-thousands-of-dollars. **Amy Burns** asked if the context was provider-administered drugs only, such as infusions, and he confirmed yes.

Akil Patterson asked how pay-for-delay policies are moving along. **Sean Dickson** said the pay-for-delay bill was not included in the recent package that went through the Senate Health Committee. He said one challenge of taking on the pay-for-delay practice is manufacturers have found ways to achieve the same deals without using the historical structure. There have been proposals to allow the Federal Trade Commission to have more authority over those. In addition, AHIP is focused on reducing the barriers to the Federal Drug Administration (FDA) approval for generics and biosimilars. These barriers encourage the use of pay-for-delay deals. One of the reasons the generic manufacturer will engage in this process is because of the high litigation cost for getting the drug approved and patents dismissed. He said it is important to address the underlying incentives for why those strategies are being used.

Affordability review rule and approval: **Cortnee Whitlock** discussed the timeline for approval of the affordability review rule on Page 23 of the agenda packet. She reviewed the Statement of Need and Fiscal Impact on Pages 23-28, and recent updates to the affordability review rule on Pages 29-46. Staff added a definition for therapeutic alternative and asked board members for feedback. **Amy Burns** said the definition works and is similar to Medicare's. **Rebecca Spain** agreed from a clinical standpoint. **John Murray** agreed and said this will allow the board to find less expensive options. **Shelley Bailey** recommended a data source, Myers and Stauffer's fee-for-service, Medicaid pricing for acquisition cost, for f) analysis to consider acquisition cost for pharmacies as shown on Page 40. She hopes the board will take into consideration net price through the 340B program in the affordability review rule. **Ralph Magrish** said the board has no statutory authority to find 340B

pricing. **Cortnee Whitlock** explained that is the reason she moved it from the data section to the stakeholder feedback section of the rule. **Vice Chair Shelley Bailey** asked about including the word "net drug prices." **Ralph Magrish** and **Cortnee Whitlock** said the legislation narrows the board scope and counsel recommended not using "net."

Chair Akil Patterson called for a motion to approve the affordability review rule as presented. **Amy Burns** made the motion and **Rebecca Spain** provided the second.

MOTION by Amy Burns to approve the affordability review rule as presented.
Board Vote:
Yea: Amy Burns, John Murray, Rebecca Spain, Shelley Bailey, Akil Patterson
Nay: None.
Motion passed.

Final Generic Drug Report: **Cortnee Whitlock** reviewed the final version of the generic drug report on Pages 47-60. Once the board approves the report, staff will send it to Oregon Legislature, as directed in Senate Bill 844 (2021). She asked if board members had comments and there were none. **Chair Akil Patterson** called for a motion to approve the generic drug report as presented. **John Murray** made the motion and **Shelley Bailey** provided the second.

MOTION by John Murray to approve generic drug report.
Board Vote:
Yea: Amy Burns, John Murray, Rebecca Spain, Shelley Bailey, Akil Patterson
Nay: None.
Motion passed.

Public comment: The chair allocated three minutes for public comment. Dharia McGrew, state policy director, PhRMA, provided testimony to the board. PhRMA's written comments are posted online: https://dfr.oregon.gov/pdab/Documents/20230517-PDAB-public-comment.pdf.

Adjournment: The meeting was adjourned at 11:04 a.m. by **Chair Akil Patterson**, with a motion by **John Murray** and a second by **Amy Burns**.