

October 18, 2021

TO: Numi Lee Griffith, DCBS
FR: Maribeth Guarino, Oregon State Public Interest Research Group (OSPIRG)
RE: SB 763 Initial Rules Feedback

Thank you for the opportunity to provide feedback on the rules for SB 763 (2021) on behalf of OSPIRG and consumer voices. Below are a few comments for your consideration.

836-200-XXX1: Definitions

Sec. 8 defines a “material change in a licensee’s business operations”. During the discussion, there was some concern over this language and the difference between this and “material changes the licensee made in the licensee’s business operations”. The language for both comes from the same section in the bill (Sec. 1(2)(e)). OSPIRG would support defining both phrases as having the same meaning as laid out in the draft rules in (8)(a)-(c).

836-200-XXX3: License Application and Renewal Application

There was discussion around whether or not license fees should be prorated depending on when in the calendar year a pharmaceutical representative is applying for their license. We believe the department should keep (1)(d) as proposed as other DFR-administered licenses are not prorated.

836-200-XXX12: Licensee Reporting Requirements

In (3)(c) we suggest adding in “The location **or electronic contact** and duration of the licensee’s contact with each health care provider” as interactions may not always be in person.

We suggest that the agency seek clarity from the Department of Justice around (3)(e) and the questions that were raised on reporting the monetary value of samples. It may make sense to use federal language that indicates the value of the samples. Regardless of whether they are given freely to providers, gifts and samples would have a value on the market and that should be reflected in licensees’ reporting. If it is impossible to do so under federal law, it may make sense to instead ask for the volume and type of samples (e.g. X pills of Y drug).

836-200-XXX12: Prohibited Conduct for Licensees

We recommend adding or referring to an existing definition of “material fact” as mentioned in sec. 1.

836-200-XX14: Civil Penalties and License Revocation

We recommend adding language to specify that the penalties include license revocation, such as: “The department may impose civil penalties on **or revoke the license of** licensees for violations of 2021 Or Laws ch 593 and OAR 836-200-XXX0 to 836-200-XX13, including but not limited to the following:”