

**December 3, 2018**

**TO:**

Jesse O'Brien  
Senior Policy Analyst  
Oregon Department of Consumer & Business Services  
Division of Financial Regulation  
350 Winter St. NE  
Salem, OR 97301

**FROM:**

Mark O. Griffith  
Health Care Advocate  
OSPIRG

**BY Electronic Submission TO: Jesse.E.Obrien@Oregon.gov and  
Karen.J.Winkel@oregon.gov**

**RE: HB 4005 Rulemaking Advisory Committee, Comments on Proposed Approaches to  
“Net Yearly Increase”**

Dear Mr. O'Brien,

Thank you for convening this Committee and providing the opportunity to give feedback on the implementation of 2018 HB 4005. I'm writing to give feedback from OSPIRG regarding the various proposals for defining “net yearly increase” and the discussions of the last RAC meeting held on November 13, 2018. As a consumer advocacy organization with tens of thousands of citizen members throughout the state of Oregon, we are committed to help the Department of Consumer and Business Services (“DCBS”) implement HB 4005 as it was intended, exposing valuable information about the factors influencing prescription drug pricing to public scrutiny.

Unfortunately, I will not be able to attend the meeting tomorrow in person due to a schedule conflict, though I will make an effort to call-in when able. In lieu of my attendance, I would like to give the following feedback:

Having reviewed Kaiser Foundation's suggestion submitted to the RAC on November 21, 2018 - comparing every price increase during the year to the lowest price in the year - we believe this is a superior option to any of the prior suggestions. This approach appears to be more clearly within the plain language of HB 4005 than approaches that require averaging, and should be administratively simple to apply for both reporting manufacturers and DCBS. In the event that

prices ultimately fall over the course of the year but a report is still required under this approach, a reporting manufacturer would have the opportunity to highlight the decrease and the conditions that allowed it.

Of the other options described in DCBS's memo, we believe that Option #2 (comparing average WAC for entire years) is the best alternative to Kaiser's proposal. Option #7 is also appealing, though perhaps administratively burdensome. However, we would also urge DCBS against using the approaches described as options 1, 3, 4, and 6 - which we believe, as discussed previously, could result in false negatives due to active manipulation of price setting by manufacturers.

Thank you for your time and consideration.

Respectfully submitted,



Mark O. Griffith