

## Oregon Department of Consumer and Business Services Division of Financial Regulation, Bulletin No. DFR 2024-3

To: All manufacturers of prescription drugs subject to Oregon Drug Price Transparency Program

Date: February 21, 2024

RE: Suspension of requirement to file certain annual price increase reports

### I. Purpose

The purpose of this bulletin is to inform prescription drug manufacturers subject to the Oregon Drug Price Transparency Program that a recent court ruling will result in the indefinite suspension of some of their required reporting responsibilities.

### II. Background

The Prescription Drug Price Transparency Act<sup>1</sup> and House Bill 2658 (2019) created the Oregon Drug Price Transparency Program and instituted several reporting requirements for prescription drug manufacturers.

One of the requirements is codified under ORS 646A.689(3) and requires manufacturers to report annually to the Department of Consumer and Business Services (DCBS) certain information related to prescription drugs that had price increases.

On Feb. 16, 2024, the U.S. District Court for Oregon in *Pharmaceutical Research and Manufacturers of America v. Stolfi*, issued a declaratory judgment that section 2(3) of the Prescription Drug Price Transparency Act violates the First Amendment to the U.S. Constitution and is, therefore, unenforceable.<sup>2</sup>

The court's order, which DCBS believes was entered in error and plans to appeal, only applies to the reporting requirement under section 2(3) of the Act, which was codified as ORS 646A.689(3). The judgment does not impact, for example, the separate reporting requirements under ORS 646A.689(5), ORS 646A.689(6), or ORS 646A.683.

### III. Director's Guidance

Effective immediately and until further notice, the annual price increase reporting requirement under ORS 646A.689(3) is suspended. Manufacturers may, but are not

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<sup>1</sup> House Bill 4005 (2018), 2018 Or. L. Ch. 7.

<sup>2</sup> No. 6:19-cv-01996-MO, ECF 77 (D. Or. Feb. 16, 2024).

required to, submit, or complete any annual price increase reports containing the information detailed in ORS 646A.689(3) at this time. The agency plans to appeal the court's order and will update this guidance as appropriate.

This court decision does not impact other reporting requirements under the Oregon Drug Price Transparency Program. Manufacturers must continue to file all other reports under all applicable laws, including new drug reports under ORS 646A.689(6), 60-day price increase notices under ORS 646A.683, and patient assistance program information under ORS 646A.689(5).



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Andrew R. Stolfi  
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02/21/2024

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Date