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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

PDAB 1-2022

CHAPTER 925

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

PRESCRIPTION DRUG AFFORDABILITY BOARD

FILED

06/27/2022 11:18 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Model Rules for Rulemaking and Public Records Requests

EFFECTIVE DATE: 06/27/2022 THROUGH 12/23/2022

AGENCY APPROVED DATE: 06/27/2022

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Filed By:
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Rules Coordinator

NEED FOR THE RULE(S):

These rules are necessary for the operation of the Prescription Drug Affordability Board (PDAB) to promulgate administrative rules consistent with its authority under SB 844 (2021).

JUSTIFICATION OF TEMPORARY FILING:

This temporary rulemaking is needed because failure to act promptly will result in serious prejudice to the public interest as the PDAB's statutory mandate is to protect residents of this state, state and local governments, commercial health plans, health care providers, pharmacies licensed in this state and other stakeholders within the health care system in this state from the high costs of prescription drugs. The PDAB is unable to proceed without these rules in place.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Draft rules are available from the Rules Coordinator, Division of Financial Regulation, located at 350 Winter St. NE, P.O. Box 14480, Salem, OR 97301-0405, and are available on the division's website: dfr.oregon.gov/laws-rules/Pages/proposed-rules.aspx.

RULES:

925-100-0001, 925-100-0002, 925-100-0003

ADOPT: 925-100-0001

RULE SUMMARY: Provides a legal framework for the Prescription Drug Affordability Board (PDAB) to engage in rulemaking as authorized by SB 844 (2021), consistent with authorities granted under ORS 183.341.

CHANGES TO RULE:

925-100-0001

Model Rules for Rulemaking

The Model Rules for Rulemaking, OAR 137-001-0005 through 137-001-0100, in effect on Jan. 1, 2008, adopted

by the Oregon Department of Justice under ORS 183.341, are adopted as the rules of procedure for rulemaking actions of the Prescription Drug Affordability Board. The full text of the Model Rules is available from the Department of Justice, the Prescription Drug Affordability Board, or on the Oregon State Archives website at https://arcweb.sos.state.or.us/pages/rules/oars_100/oar_137/137_001.html.
Statutory/Other Authority: ORS 646A.693 - 646A.697
Statutes/Other Implemented: ORS 183.325 - 183.410

ADOPT: 925-100-0002

RULE SUMMARY: Defines requirements for notification of rulemaking by the PDAB.

CHANGES TO RULE:

925-100-0002

Notice of Rulemaking

(1) Except when adopting a temporary rule, the Prescription Drug Affordability Board will give prior public notice of the proposed adoption, amendment, or repeal of any rule by:

(a) Publishing notice of the proposed rulemaking action in the Secretary of State's Oregon Bulletin at least 21 days before the effective date of the rule;

(b) Notifying interested people and organizations on the Prescription Drug Affordability Board's notification lists of proposed rulemaking actions under ORS 183.335; and

(c) Providing notice to legislators as required by ORS 183.335(15).

(2) A person or organization may elect to receive email or hard-copy notification of proposed rulemaking actions of the Prescription Drug Affordability Board.

(a) A person or organization may elect to subscribe to the Prescription Drug Affordability Board's email notification service at

https://public.govdelivery.com/accounts/ORDCBS/subscriber/new?topic_id=ORDCBS_732.

(b) A person or organization may elect to receive hard-copy notification by sending a request in writing, including the person or organization's full name and mailing address, to the following address:

Rules Coordinator

Prescription Drug Affordability Board

350 Winter St. NE

P.O. Box 14480

Salem, OR 97309-0405

Statutory/Other Authority: ORS 646A.693 - 646A.697

Statutes/Other Implemented: ORS 183.335, ORS 84.022

ADOPT: 925-100-0003

RULE SUMMARY: Adopts requirements found in Oregon's Public Records Law (ORS 192) into PDAB rules.

CHANGES TO RULE:

925-100-0003

Public Records Requests

- (1) Oregon's Public Records Law (ORS 192) provides that every person has a right to inspect any public records of a public body, except records that are exempt from disclosure.¶
 - (2) A public record request may be submitted in person, by U.S. Mail, fax or by email to the Prescription Drug Affordability Board (Board). The written request must include:¶
 - (a) The name and address of the person requesting the public record;¶
 - (b) The telephone number or other contact information of the person requesting the public record;¶
 - (c) A sufficiently detailed description of the record(s) requested to allow the Board to search for and identify responsive records; and the¶
 - (d) Date and signature of the person requesting the public record.¶
 - (3) Public records, except those exempt from disclosure, will be made available upon request for review and copies will be provided at a fee reasonably calculated.¶
 - (4) The Oregon Public Records Law allows agencies to recover their actual costs in fulfilling a public records request including actual costs for supplies, research, compilation, postage, shipping and staff time.¶
 - (5) Fees will be payable prior to fulfilling a public records request. If the fee is estimated to be greater than \$25:¶
 - (a) The Board staff will provide the requestor with a written notice of the estimated amount of the fee.¶
 - (b) The public records request will not be fulfilled until the requestor confirms in writing that the requestor wants to proceed with the request.¶
 - (6) Standard fees for Public Records:¶
 - (a) Per page fees reflect current Oregon Department of Administrative Services policy;¶
 - (b) \$5.00 for each true notarized certification;¶
 - (c) Other applicable fees: actual costs or best estimate of costs; and¶
 - (d) Miscellaneous fees may include archive retrieval costs, costs of software companies/contracts; other third party costs.¶
 - (e) No charge for the first 30 minutes of staff time for processing request. The hourly rate charged for additional staff time is based on the level of skill or expertise required to complete the work performed not the employee-level of the individual actually fulfilling the request.¶
 - (f) Clerical labor charges are \$25.00 per hour; Managerial labor charges are \$40 per hour; Professional (IT, HR, high-level Analyst) \$75.00 per hour; and DOJ, special attorney and other applicable legal fees: at the actual hourly rate charged for Public Records Request-related services. Fees are subject to statutory limitation described in ORS 192.324.¶
 - (7) The Board may furnish copies of public information without charge or at a reduced fee if it is determined that the waiver or reduction of fees is in the public interest because providing access primarily benefits the general public under ORS 192.324.¶
 - (8) A person desiring a waiver or reduction in fees must submit a written request for a waiver.¶
 - (9) The Board Executive Director will consider each request on a case-by-case basis based on the information provided by the requestor and the totality of the circumstance at the time of the request.¶
 - (10) The Board Executive Director will make fee waiver or reduction decisions based on the guidelines outlined in the Oregon Department of Administrative Services Statewide Standardized Fee Process.
- Statutory/Other Authority: ORS 646A.693 - 646A.697
Statutes/Other Implemented: ORS 192.324