Oregon Prescription Drug Affordability Board

Oregon Prescription Drug Affordability Board Meeting
Wednesday, October 19, 2022
Minutes
Approved by the board November 16, 2022

Call to Order and Roll Call
Chair Akil Patterson called the meeting to order at 9:32 a.m. and asked for the roll call.

Board Members Present: Vice Chair Shelley Bailey, Dr. Richard Bruno, Dr. Amy Burns, Dr. Daniel Hartung, Chair Akil Patterson, Robert Judge (alternate), Dr. Rebecca Spain (alternate).
Board Members Absent: John Murray (alternate) due to hosting a vaccine clinic at his pharmacy.

Approval of the Minutes
Chair Akil Patterson asked if board members had any changes to the September 21, 2022, minutes on Pages 3-7 in the agenda packet posted online: https://dfr.oregon.gov/pdab/Documents/20221019-PDAB-document-package.pdf. Vice Chair Shelley Bailey moved to approve, and Dr. Daniel Hartung provided a second. The chair asked for a voice vote.

MOTION by Shelley Bailey to approve the September 21, 2022, minutes.
Board Voice Vote:
Yea: Richard Bruno, Amy Burns, Daniel Hartung, Shelley Bailey, Akil Patterson.
Nay: None.
Motion passed.

Program Update: Executive Director Ralph Magrish welcomed new board members Amy Burns and John Murray, confirmed by the Senate in September. Dr. Burns, Grants Pass, is director of pharmacy services at a coordinated care organization serving Oregon Health Plan members in Southern Oregon. John Murray is the owner of an independent pharmacy in Boardman. The board looks forward to the contribution of their work and all the experiences and insights they bring.

Ralph Magrish let the board know the conflict of interest form has been posted to the web as a fillable PDF, which will be easier to fill out and return to staff. Additionally, the online comment submission form has been updated with instructions. Staff is contracting with ICER, the Institute for Clinical and Economic Research, in preparation for the affordability reviews, along with acquiring health data from SSR Health. At the November meeting, the board will hear from Tahir Amin, co-founder and CEO of IMAK, presenting on international prescription drug patent law and implications on drug costs.

The Drug Price Transparency (DPT) program will hold its annual public hearing on Dec. 1, from 10 am to 12 pm. DPT is directed by statute to receive manufacturer pricing reports related to new drugs that cost more than $670 on launch. In-state insurance carriers also report to the Division of Financial Regulation the top 25 most costly and prescribed drugs and the impact of those drug costs on premium rates. New data points collected for this year include the total dollar amount paid for drugs by the insured and by the insurer after rebates and other price concessions. The December 1 hearing will also include consumer reports and personal stories from Oregonians. Consumers who would like to report price increases and tell their stories can visit the transparency website: https://dfr.oregon.gov/drugtransparency/Pages/public-hearings.aspx. The annual hearing will include panel discussions on insulin pricing presented by National Academy of State Health Policy (NASHP),

Cambia/Regence, the Oregon Public Interest Research Group (OSPIRG), and Civica Rx. A second panel will be on PBM rebate transparency presented by Pharmaceutical Care Management Association, Pharma, Healthcare Distribution Alliance, and an independent pharmacist from rural Oregon. The DPT program is preparing a legislative report with recommendations for legislative changes to contain the cost of prescription drugs.

Upper Payment Limit: Lila Cummings, director of the Colorado Prescription Drug Affordability Board, gave a presentation on upper payment limits, located on Pages 14-38: https://dfr.oregon.gov/pdab/Documents/20221019-PDAB-document-package.pdf. She discussed the board's rulemaking process, establishing affordability review criteria, upper payment limit methodology, research methods, stakeholder input, reporting requirements for using savings, and carrier use of savings formula. Andrew York, executive director of the Maryland Prescription Drug Affordability Board, also presented slides located on Pages 39-55: https://dfr.oregon.gov/pdab/Documents/20221019-PDAB-document-package.pdf. He discussed the board generics report, pharmaceutical distribution and payment system report with recommendations, a cost review process, and the board's plan to develop and submit an upper payment limit action plan, transparency program, and insulin affordability program.

Chair Akil Patterson asked if upper payment limits actually help and what is the evidence they would help protect residents of Oregon, Maryland, and Colorado. **Andrew York** said he was responding personally, not on behalf of the board. He said upper payment limits would have an impact because they set the amount that would be paid for a drug. It is a novel policy and these boards are the organizations that can do this work. An example of upper payment limits are the Medicaid prescription drug negotiations, which are part of the Inflation Reduction Act. **Lila Cummings** said the way Colorado's upper payment limit is being drafted, it would apply directly to the consumer and to the carrier reimbursement. How upper payment limits impact manufacturers through negotiations is an area outside the board's purview. **Andrew York** said part of the challenge for these boards is to make sure what they implement has the desired effect. Part of the exercise is defining terms.

Chair Patterson said the Oregon Prescription Drug Affordability Board does not currently have upper payment limit authority, but the board wants to gain understanding if the legislature gives the board that authority in the future. The chair asked if the Maryland board initially had the authority to set upper payment limits. **Andrew York** said the Maryland Prescription Drug Affordability Board has the authority to set upper payment limits for state and county governments, including state employees and procurements.

Robert Judge asked if they considered the best price in their upper payment limit discussions. **Andrew York** said yes, the board absolutely needs to consider the best price as they go through the process of setting upper payment limits. Generally, the best price is a substantial discount. **Lila Cummings** agreed and said when the Colorado board is considering upper payment limits, staff will include information from the all payer claims database, publicly available fee schedules, and what some private payers may have paid. **Robert Judge** said since much of the information is voluntarily supplied, how does the board account for a supply chain that lives comfortably in the dark when determining drug costs. **Lila Cummings** said Colorado uses publicly-available list prices - what was actually paid - or wholesale acquisition costs, knowing they will be unable to get at each point of the supply chain. **Andrew York** said there are strong confidentiality protections in the board's work and with that comes the opportunity to get some data points that are not publicly accessible. One of the Maryland board recommendations is implementing a transparency program. The board does not know the net price of a drug or even the magnitude. As part of this transparency program, Maryland will learn from the work happening in Oregon and other states. Part of the reason these issues exist is because of this opacity and complexity. Trying to shine some sunlight there is one of the things these boards can do.

Chair Patterson asked about upper payment limit impact on 340B clinics. **Andrew York** said 340B programs provide drugs at a discounted cost to entities that serve high-needs populations. It allows them to get drugs for significantly discounted prices. They often are reimbursed at the normal rate, except for Medicaid. It is a revenue source for entities serving high needs populations. Folks are worried once that revenue is cut, they won't have the resources to provide other services. It is something the board needs to account for. The board needs to ask what it means to implement an upper payment limit and how it goes through the supply chain as the board intends. **Lila Cummings** said a drug would be deemed unaffordable only after consultation with 340B providers during the affordability review stage. It is a requirement the board receive feedback on the potential impacts of an unaffordable drug on the safety net and 340B providers. The board would also have utilization data for a prescription drug under consideration for upper payment limit, asking who is utilizing that drug and where is that drug being provided. **Chair Patterson** said there are growing populations of unhoused or with unstable housing who need services so boards want to ensure they are not impacting them.

Dr. Rebecca Spain said Colorado is looking at an upper payment limit as the sole strategy and Maryland is looking at multiple options for controlling drug costs, which is more in line with what Oregon is doing. Is there a methodology for comparing these different approaches to see what might have the biggest bang for the buck? **Andrew York** said the Maryland board gives staff the ability to take a broad look and the reports show what legislators can do to reduce costs. Maryland continues to get legislation to address drug affordability and staff tries to make sure it all fits together, taking a broader view in recommending policies. **Lila Cummings** said Colorado has programs outside the state board of insurance working on the issue. There are many components to affordability, to make it more affordable to state budgets, to help with costs of drugs used by a small number of individuals, or the overall price. The board asks, "Would an upper payment limit address this affordability goal?" **Andrew York** some of those will be hard conversations, so the board should make sure it has a framework for each view. **Daniel Hartung** asked about the pricing reviews in Massachusetts and New York. **Andrew York** said the programs are New York Medicaid Drug Cap, https://www.health.ny.gov/health_care/medicaid/regulations/global_cap/general_faqs.htm, and Massachusetts Health Policy Commission, https://www.mass.gov/service-details/drug-pricing-review#:~:text=Massachusetts%20Health%20Policy%20Commission%20Drug%20Pricing%20Review%20The,unreasonable%20or%20excessive%20in%20relation%20to%20the%20value. **Dr. Richard Bruno** asked when Colorado was prohibited from using cost for quality indicators. **Lila Cummings** said it happened during the legislative process, with concerns about undervaluing life due to age or disability.

Presentation on Pharmacy Benefit Managers: **Cassie Soucy and Numi Griffith**, senior policy advisors for DCBS, discussed pharmacy benefit managers (PBMs) and insight into the pharmaceutical supply chain, along with the regulatory scheme for PBMs in Oregon. Pharmacy benefit managers are intermediaries between health insurers, pharmacies, wholesalers, and manufacturers. The presentation is located on Pages 56-71 of the agenda packet posted here: https://dfr.oregon.gov/pdab/Documents/20221019-PDAB-document-package.pdf

Dr. Rebecca Spain asked how much of a rebate gets passed to the insurer? **Cassie Soucy** said passing along a rebate is a contract decision made between the PBM and the health insurer. It is an area that lacks transparency. Medicaid has specific requirements for passing through rebates.

Amy Burns asked about the difference in the number of complaints, 20,000 in 2015 and seven in 2021. **Numi Griffith** said the complaints were submitted as a single form but related to 100 prescriptions. For 2021, most of the seven complaints were related to the same incident. There is an issue with the Division of Financial Regulation (DFR) communicating to pharmacies about the complaint option. Staff receives anecdotal reports of noncompliance but few submissions. **Amy Burns** said it might help increase the number of complaints the state received if the information was published. **Numi Griffith** said the information is available on the website.

Robert Judge asked if DCBS has looked into PBMs establishing separately owned companies that contract directly with manufacturers and pass through rebates to the PBM. Some PBMs claim they pass through 100 percent of the rebates but there is a lack of transparency. **Numi Griffith** said the state is not assessing this, but there is awareness. Oregon is participating in a national work group on PBM regulation.

Vice Chair Shelley Bailey said the challenges impacting independent pharmacies also impact small chain pharmacies. She participated in a workgroup related to House Bill 4005. The vice chair said pharmacies fear retaliation and more audits for reporting PBM violations. Related to Covid 19, pharmacies have been on the front end of providing care and vaccines, which decreases the time they have to submit a violation report. **Numi Griffith** said they have heard it is difficult for pharmacists to take time away from giving vaccines and helping patients to complete a violation complaint form. As far as the retaliation issue, they have heard that as well. However, there are extensive rules about how audits are to be conducted.

Update on Draft Reports: Steve Kooyman, PDAB project manager, updated the board on the draft report schedule shown on Pages 72-78 in the agenda packet: https://dfr.oregon.gov/pdab/Documents/20221019-PDAB-document-package.pdf. **Steve Kooyman** said the board will review draft reports on Nov. 16 and final reports on Dec. 14. He thanked board members for their time and contributions to the reports. **Vice Chair Shelley Bailey** asked when board members could send edits and feedback to staff and **Steve Kooyman** said board members could send them any time before Nov. 18.

Announcements: The board reviewed the 2023 board calendar: https://dfr.oregon.gov/pdab/Documents/20221019-PDAB-document-package.pdf

Public Comment: The chair allocated three minutes for public comment. He called on the person who signed up in advance to speak, Dr. Richard Bruno, board member and physician at Central City Concern, who spoke to the board.

Adjournment: The meeting was adjourned at 11:38 am. Dr. Richard Bruno made the motion, and Vice Chair Shelley Bailey provided the second.

MOTION by Dr. Richard Bruno to adjourn the meeting.
Board Voice Vote
Yea: Richard Bruno, Amy Burns, Daniel Hartung, Shelley Bailey, Akil Patterson.
Nay: None.
Motion passed.