



Oregon Prescription Drug Affordability Board Meeting
Wednesday, January 18, 2023 Minutes
Approved on February 15, 2023

Chair Akil Patterson called the meeting to order at 9:34 am and asked for the roll call.

Board Members present: Chair Akil Patterson (left at 11 am), Vice Chair Shelley Bailey, Dr. Richard Bruno (arrived at 10:35 am), Dr. Amy Burns (left at 11 am), Dr. Daniel Hartung (left at 10:30 am), John Murray (alternate), Dr. Rebecca Spain (alternate)

Board members absent: Robert Judge (alternate)

The chair appointed Dr. Rebecca Spain and John Murray, alternates, to vote in today's meeting, if necessary.

Approval of the minutes: **Chair Akil Patterson** asked if board members had any changes to the Dec. 14, 2022, minutes on Pages 3-6 in the agenda packet: <https://dfr.oregon.gov/pdab/Documents/20230118-PDAB-document-package.pdf>. Amy Burns asked for a correction on Page 2 to read: "Amy Burns suggested using "pharmacy claim" instead of "encounter" in other parts of the report." **Daniel Hartung** moved to approve minutes with the correction and **Vice Chair Shelley Bailey** provided a second.

MOTION by Daniel Hartung to approve the Dec. 14, 2022, minutes with the correction.

Board Voice Vote:

Yea: Amy Burns, Daniel Hartung, Shelley Bailey, Akil Patterson, Rebecca Spain.

Nay: None.

Motion passed.

Program update: Executive Director Ralph Magrish said he has been invited to speak at the Oregon Health Authority's Cost Growth Target Advisory Committee at 10:30 am today. He will present the board's recommendations for their review, discussion and consideration for endorsement. Sen. Deb Patterson, chair of the Senate Health Care Committee, will be sponsoring and introducing a bill that includes all of the 2022 PDAB recommendations. The vacant research analyst position is now open for recruitment through January 26. The link to the recruitment is on the PDAB website. Please share in your networks. Next month's board presentation will be from PORTAL, the contractor working through NASHP to provide technical assistance to state PDABs. At last month's meeting, board members requested 14 presenters for 2023 meetings. Staff will put together a calendar for the board soon.

Brian Mayo, executive director, and Kevin Russell, central Oregon director, Oregon State Pharmacy Association (OSPA), gave a presentation from slides on [Pages 7-24](#) in the agenda document. They gave a summary of the OSPA report, which is available online: <https://oregonpharmacy.org/> When Bi-Mart pharmacy closed 18 months ago, OSPA hired 3-Axis Advisors to do a study. Eighty-six of Oregon's estimated 534 retail community pharmacies, 16.1 percent, participated. The study examined prescription claims and reimbursement data for three years (2019-2021), which accounted for 12 million claims. In 2018, the cost of a pharmacy to dispense a drug was \$12.40, increasing to an estimated \$15 in 2023. Yet pharmacies are actually getting paid only \$7, they said. The OSPA report reached five conclusions, shown on [Page 20](#) of the agenda packet. The OSPA recommends changing how people are paid with 11 recommendations shown on [Pages 22-23](#). OSPA is supporting House Bill 3013, which requires pharmacy payments of no less than Oregon average actual acquisition cost plus a dispensing fee established by Oregon Health Authority.



Questions from the board: Vice Chair Shelley Bailey asked if specialty pharmacies are included in the average, actual acquisition cost, which is derived from a survey of retail and mail order pharmacies. She said specialty pharmacies are not included in the National Average Drug Acquisition Cost (NADAC). Kevin Russell said they will have to research the question. Vice Chair Shelley Bailey recommended having Myers and Stauffer present to the board, the company that conducts these surveys in Oregon and nationally.

Daniel Hartung said he reviewed the OSPA report and appreciated today's high-level summary. He said OSPA presented two contrasting slides, the break down by margin where pharmacies break even and where they push themselves in the black. The notion is all their margin is made in the top five percentile of prescriptions, which he presumes are high-expense drugs, basically getting paid more than what they are paying, in terms of the NADAC. He asked if this is a correct interpretation. Kevin Russell said there are varying examples. Daniel Hartung asked if dimethyl fumarate is an example, as shown on [Page 18](#). Kevin Russell said yes but those amounts were not paid to pharmacies in the study. He assumes they were paid to a specialty pharmacy.

Rebecca Spain said the presentation shows the proposals would be beneficial to small and independent pharmacies but asked how will they be received by large pharmacies. Kevin Russell thinks it would help all pharmacies. The chain pharmacies are suffering just like everyone else, having problems with service and staffing, so they should equally benefit from the changes, he said.

Amy Burns said she also read the OSPA report. She asked if the reason OSPA focused on Medicaid is because that's what data was available. She said the study looked at 16 percent of the pharmacies in Oregon, a narrow sliver, and asked if they calculated a survey sample size. Kevin Russell said it was a significant sample size. Brian Mayo said the data is similar to other state findings and is a good sample size. **John Murray** said the OSPA information is very accurate. He thinks the Secretary of State audit will echo the OSPA survey results. He said the direct and indirect remuneration (DIR) fees went from \$65,000 to \$109,000 this year, which is unsustainable. The suggestions for changes to the system are very important, he said.

Vice Chair Shelley Bailey said she appreciates the call for transparency in prescription costs. There are companies doing this, such as Cost Plus Drug Company, mentioned in the PDAB report. Average actual acquisition cost is a published number. These transparent models are where things are heading in the future, she said. **Amy Burns** said the last suggestion on [Page 23](#) looking at the California model is something already occurring in Oregon Medicaid, part of the 2020 changes in the CCO model.

Legislative bills and session discussion: Jessie O'Brien, policy manager, Division Financial Regulation, reviewed the prescription drug-related bills introduced to the Oregon Legislature so far this session. The list is on [Page 25](#) of the agenda packet. The 2023 Oregon legislative session started January 17. Staff is combing through the thousands of bills introduced to see which ones will have an impact on the programs or issues at DCBS. **Chair Akil Patterson** asked if HB 2725 would limit fees at point of sale only. **Vice Chair Shelley Bailey** said post adjudication charge backs allow PBMs to charge a Medicare DIR up to 180 days later. It is a system to allow lower network rates but is not as transparent as lowering the rate on the front end, she said.

Regarding HB 3013, **Chair Akil Patterson** asked if PBMs are licensed in Oregon currently. Jesse O'Brien said it is a registration requirement and there are 30 PBMs registered with DCBS now. The chair asked Jesse O'Brien about providing an update later in the session and he agreed to.

Board approval of amended public comment policy: Cortnee Whitlock, board policy analyst, reviewed the amended policy on [Pages 26-27](#) of the agenda packet. The board will post written comments submitted to the



board on the PDAB website beginning Jan. 1, 2023. Chair Patterson asked for a motion and a second. Vice Chair Shelley Bailey made a motion to approve the amended public comment policy, with a second by John Murray.

MOTION by Shelley Bailey to approve public comment policy as amended.

Board Vote:

Yea: Amy Burns, Rebecca Spain, John Murray, Shelley Bailey, Akil Patterson.

Nay: None

Motion passed.

Board approval of 2023 work plan: Cortnee Whitlock reviewed the roadmap for board work in 2023 shown on [Pages 28-31](#) of the agenda packet. Chair Patterson asked for a motion and a second. Amy Burns made a motion to approve the 2023 work plan, with a second by Vice Chair Shelley Bailey.

MOTION by Amy Burns to approve the 2023 work plan.

Board Vote:

Yea: Amy Burns, Rebecca Spain, John Murray, Shelley Bailey, Akil Patterson.

Nay: None

Motion passed.

Board discussion on rulemaking – fee structure and affordability reviews: Cortnee Whitlock presented concepts for the fee structure, for collecting gross revenues from manufacturers, shown on [Pages 32-42](#) of the agenda packet. She also discussed the affordability review criteria on [Pages 37-38](#).

Vice Chair Shelley Bailey thanked Cortnee for working on a solution that is in alignment with the statute but is realistic with what's achievable. She appreciated making the base fee an option to discuss. Gross revenue doesn't always correlate with profit, she said. Relying on gross receipts may have a disproportional, negative impact on manufacturers of some high cost drugs that have good outcomes in helping Oregonians.

Amy Burns asked if the list would be drugs new to market or drugs that have been on the market for some time. Cortnee Whitlock said the statute states drugs marketed in Oregon the previous year. **Vice Chair Shelley Bailey** asked if they can link the Drug Price Transparency (DPT) information to the All Payer All Claims (APAC) data to see what medical or other expenses those drugs help offset.

Regarding the criteria on [Pages 37-38](#), **Amy Burns** asked about adding pharmacy deserts to the equity list because it impacts access to medication. **Chair Akil Patterson** said he wants to keep the issues separate. **Amy Burns** agreed about having two distinct issues, though sometimes they are an overlapping Venn diagram, she said. **Richard Bruno** said in terms of language, he prefers to use under resourced communities. Cost and access are two of the biggest drivers leading to health inequities, he said.

Rebecca Spain said it might be helpful to consider the denominator, whether the drug is for a specific disease such as cancer, in thinking about total cost. The board should think about the population the drug is targeted to. **Amy Burns** said part of the problem when drugs are prescribed, many are not filled due to insurance not approving it or other reasons. The denominator, if it includes all prescriptions, will be different than all the prescriptions filled for that drug. That's important because it shows where the medications are not getting to the patients, she said. **Vice Chair Shelley Bailey** agreed and asked if it could be pulled from APAC data. She said the criteria could look instead for adjudicated claims, medications prescribed versus what someone was actually able to receive. She said knowing the diagnosis code could be helpful. Chair Akil Patterson said an emergency came up and he needed to leave the meeting. He asked Vice Chair Shelley Bailey to run the meeting.



Rebecca Spain asked about rare diseases, where the cost of the drug is a million times over. Is the board looking at the highest cost to the state but not at the individual with a rare disease, she said. **Amy Burns** said the board can look at both. She doesn't think the board should ignore something that is very, very high cost but is an orphan drug and only impacts a small group of people. She thinks it's worth looking at the whole spectrum. **John Murray** agreed and said, even the price of that one, costly drug can vary dramatically depending on how and where it is filled. **Shelly Bailey** asked if the wording could be individuals rather than residents of Oregon because someone does not have to be a resident to qualify for assistance programs in Oregon. **Rebecca Spain** said she read the first criteria as taking each drug, looking at the major health plans, and seeing if it would be approved, or how difficult it would be to get that drug through major health plans in the state.

Vice Chair Shelley Bailey recommended sharing the PDAB meeting information with the medical community. If the board lets doctors know, the providers can tell patients about this information to encourage people to participate and share their stories. **Richard Bruno** said he and Dr. Rebecca Spain are members of professional organizations and could spread the word about opportunities to testify.

Announcements: Ralph Magrish, executive director, rejoined the PDAB board meeting and said the Cost Growth Target Advisory Committee meeting voted to endorse the Prescription Drug Affordability Board's recommendations. Stephen Kooyman, project manager, said staff would be providing tablets and state email addresses soon so all board correspondence and communication will take place through state devices.

Public comment: The vice chair allocated three minutes for public comment and called on the people who signed up in advance to speak, Tonia Sorrell-Neal, Pharmaceutical Care Management Association, and LuGina Mendez-Harper, of Prime Therapeutics. They provided testimony to the board.

Adjournment: The meeting was adjourned at 11:35 a.m. by Vice Chair Shelley Bailey, with a motion by **Rebecca Spain** and a second by **Richard Bruno**.