



Title: Conflict of Interest

Policy Number: 03

Annual Approval Date: August 3, 2022

Date Issued: Aug. 3, 2022

Dates Reviewed: Aug. 3, 2022; August 23, 2023

Amendment Date Approved: Aug. 3, 2022

1. Purpose

To ensure that the Oregon Prescription Drug Affordability Board conducts business for the benefit of the public and in the absence of personal, financial, or otherwise improper interests. The purpose of this policy is to describe the statutory requirements regarding conflicts of interest.

2. ORS Chapter 244

Board members will adhere to the requirements of [ORS Chapter 244](#), the Government Ethics Act, and the Oregon Administrative Rules, [Chapter 199](#), of the Oregon Government Ethics Commission (OGEC), which can be found here:

<https://secure.sos.state.or.us/oard/displayChapterRules.action?selectedChapter=143>

Guidance regarding these laws can be found on the OGEC website:

<https://www.oregon.gov/ogec/Pages/default.aspx>

Board members will disclose, in accordance with subsection 4 of this policy, any potential or actual conflicts of interest as defined in [ORS 244.020\(1\) and \(13\)](#):

- (1) "Actual conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in subsection (13) of this section."
- (13) "Potential conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative is associated, unless the pecuniary benefit or detriment arises out of the following:
 - (a) An interest or membership in a particular business, industry, occupation or

other class required by law as a prerequisite to the holding by the person of the office or position.

- (b) Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person's relative or business with which the person or the person's relative is associated, is a member or is engaged.
- (c) Membership in or membership on the board of directors of a nonprofit corporation that is tax-exempt under section 501(c) of the Internal Revenue Code."

Board members, under [ORS 244.120 \(2\)](#), will also:

- (a) When met with a potential conflict of interest, announce publicly the nature of the potential conflict prior to taking any action as a board member; or
- (b) When met with an actual conflict of interest, announce publicly the nature of the actual conflict and:
 - (A) Except as provided in subparagraph (B) of this paragraph, refrain from participating as a board member in any discussion or debate on the issue out of which the actual conflict arises or from voting on the issue.
 - (B) If the board member's vote is necessary to meet a requirement of a minimum number of votes to take official action, be eligible to vote, but not to participate as a public official in any discussion or debate on the issue out of which the actual conflict arises.

Please note that if the requirements of recusal under [ORS 646A.693](#) apply, the board member must recuse themselves from the decision, even if the board member would otherwise be allowed to vote under [ORS 244.120\(2\)\(b\)\(B\)](#).

3. ORS 646A.693

Board members will adhere to the requirements of [ORS 646A.693](#) as follows:

Recusal

- (a) A member of the board shall recuse themselves from decisions related to a prescription drug if the member, or an immediate family member of the member, has received or could receive any of the following:
 - (A) A direct financial benefit of any amount deriving from the result or finding of a study, review or determination by or for the board; or
 - (B) A financial benefit from any person that owns, manufactures, or provides prescription drugs, services or items to be reviewed by the board that in the aggregate exceeds \$5,000 per year.

- (b) For the purposes of paragraph (a) of this subsection, a financial benefit includes honoraria, fees, stock, the value of the member's or immediate family member's stock holdings and any direct financial benefit deriving from the result or finding of a study, review or determination by or for the Board.

Disclosure of conflicts of interest

- (a) A conflict of interest shall be disclosed:
- (A) By the board when hiring board staff;
 - (B) By the governor when appointing members to the board; and
 - (C) By the board, when a member of the board is recused in any final decision resulting from a review of a prescription drug.
- (b) A conflict of interest shall be disclosed at the earlier of:
- (A) Prior to the first board meeting after the conflict is identified; or
 - (B) Within five days after the conflict is identified.
- (c) A conflict of interest disclosed under this section shall be posted on the website of the board unless the chair of the board recuses the member from any final decision resulting from a review of a prescription drug.
- (d) A posting under paragraph (e) of this subsection shall include the type, nature and magnitude of the conflict of interest of the member involved.

Gifts

Members of the board, staff, and third parties that contract with the board may not accept any gift or donation of services or property that creates a potential conflict of interest or has the appearance of biasing the work of the board.

4. Procedures for identifying and managing conflicts of interest

Prior to each board meeting, board members will review the draft agenda and identify any potential or actual conflicts of interest under [ORS 244.120](#) or [ORS 646A.693](#) (conflict of interest).

When a board member determines they have a conflict of interest, the board member must inform the board chair and vice-chair, recuse themselves and fill out and submit the conflict of interest form to pdab@dcbs.oregon.gov.

The board member will also notify the board staff to help ensure that the member does not have access to information on matters for which the member must recuse themselves and to ensure the conflict of interest is appropriately posted.

Potential contractors will disclose any prior or current work in the pharmaceutical business sector that could give rise to a potential or actual conflict of interest as defined in [ORS 244.020](#).

Contractors will ensure that qualified personnel selected to perform work for the board have no professional, familial or financial conflict of interest relating to the pharmaceutical business sector. In connection with any particular project or work to be performed, the board reserves the right to reject any proposed personnel. In the event the board rejects the proposed personnel, the contractor will be required to provide other personnel who are acceptable to the board.

5. Annual review

The board will review this policy at least annually.