



**Title:** Policies and Procedures

**Policy Number:** 01

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### 1. Statutory authority.

The Prescription Drug Affordability Board is convened under [ORS 646A.693 through ORS 646A.697](#). Nothing in this document is intended to be contrary to these, or any, rules, statutes, constitutional provisions, or relevant judicial decisions. To the extent there is any inconsistency, the rules, statutes, Constitution, and judicial decisions govern.

### 2. Purpose.

The Prescription Drug Affordability Board (PDAB) is established by statute to protect residents of Oregon, 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 board is directed to collect and evaluate information concerning the cost of prescription drugs in Oregon; perform affordability reviews of those prescription drugs; study the entire prescription drug distribution and payment system in this state and policies adopted by other states and countries that are designed to lower the list price of prescription drugs; and make recommendations to the legislative assembly to make prescription drugs more affordable in the state.

The board is required to provide reports to the Legislative Assembly on the following schedules:

No later than June 1 of each calendar year, the board shall submit a report to the legislative assembly on the generic drug marketplace.

No later than December 31 of each calendar year, the board shall submit a report to both the Legislative Assembly and the Health Care Cost Growth Target program at the Oregon Health Authority that includes:

- (1) Price trends for the list of drugs provided by Department of Consumer and Business Services (DCBS) to the board;
- (2) The prescription drugs reviewed for affordability reviews; and

- (3) Any recommendations for legislative changes necessary to make prescription drugs more affordable in Oregon.

The board has rulemaking authority to adopt criteria for drug affordability reviews and to provide consultation to DCBS in the adoption of annual fees to be paid by manufacturers to meet the cost of program and board administration costs.

### **3. Board member selection process**

Individuals interested in serving on the board may apply through the Oregon Boards and Commissions website.<sup>1</sup> Applicants must be residents of Oregon with expertise in health care economics and clinical medicine. Openings will be communicated to the public through a notice or other consumer alert. The board application process is open to the public at all times.

### **4. Term length and vacancies**

The board consists of eight members appointed by the Governor under [Senate Bill 192 \(2023\)](#), and who are subject to Senate confirmation. The term duration for each member of the board is four years after the first appointed terms. Terms for the first appointed board are as follows:

- (1) Two board members shall serve for a term ending December 31, 2024.
- (2) Three board members shall serve for a term ending December 31, 2025.
- (3) Three board members, including the chairperson shall serve for a term ending December 31, 2026.

### **5. Conflict of interest**

The board's conflict of interest policy is set forth in the Prescription Drug Affordability Board Policy No. 03.

### **6. Responsibilities of the chair and vice chair**

The members of the board will elect one member to serve as chair and one member to serve as vice chair for the duration of their appointment to the inaugural board. The chair provides leadership for the board, presides over all board meetings, and provides strategic planning to help the board comply with its statutory duties and responsibilities. The vice chair presides over a board meeting in their absence. The chair works with board staff to develop board meeting agendas as set forth in Section 8. The chair also ensures member compliance with the Conflict of Interest Policy No. 03.

### **7. Open records and meetings**

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<sup>1</sup> Boards & Commissions, Office of Oregon Governor Tina Kotek. <https://www.oregon.gov/gov/Pages/board-list.aspx>

The board activities are subject to the Oregon Public Meetings Law, [ORS Chapter 192](#). Consistent with those laws, board activities generally will be conducted in public pursuant to public notice requirements, unless public meetings laws permit particular matters to be discussed in executive session to receive legal advice from the Oregon Department of Justice, to consider trade secret, confidential, or proprietary data that is not otherwise available to the public or other grounds found in [ORS 192.660](#).

The board records are generally subject to the Oregon's Public Records Laws, subject to any exclusions from disclosure contained in [ORS 192.340 through ORS 192.390](#).

## **8. Meetings**

The board will hold meetings at least every six weeks. The chair of the board may decide to cancel or postpone a meeting when there are no prescription drugs to review whether as a result of incomplete data or the need for further analysis and no other board business to conduct. The meetings may be referred to as meetings or hearings depending on what types of business the board plans to conduct. The board has discretion to set the time for its meetings. The board may decide to adjourn a meeting or hearing to the next available day because a meeting or hearing is running long or for any other reason. A member can participate in person, by phone, or virtually. Board meetings are broadcast live over the internet, other than executive sessions.

The board will provide the opportunity for public comment at each meeting. Public comment can be submitted in writing or alternatively, given orally during the designated time. Persons giving oral comments should introduce themselves with their name and affiliation, if any. The board is not obligated to respond to comments. The amount of time allocated for public comment will be determined by the chair of the board in consultation with board staff.

Unless otherwise invited to speak or present by the board, persons or organizations wanting to offer public oral comment shall identify themselves no later than 24 hours before the PDAB meeting through a sign-up process administered by board staff. The board's public comment policy is set forth in the Prescription Drug Affordability Board Policy No. 04.

## **9. Meeting agendas, materials, and recordings**

Board staff will post notices of upcoming meetings, meeting agendas, packets, minutes, and recordings on the Prescription Drug Affordability Board website. The meeting agenda will be designed to ensure the board meets its statutory obligations. The board chair in collaboration with the staff will prepare a draft agenda and provide it to the members prior to the board meeting or hearing.

## **10. Quorum, decisions, and voting**

A majority of the eight (8) person board constitutes a quorum. Five members must be present to have a quorum. Voting will be conducted by a member roll call. Motions to conduct board business should flexibly follow the processes set forth in Robert's Rules of

Order (e.g. motion, second, discussion, vote). [ORS 174.130](#) requires a majority of board members to concur for the motion to pass. If a vote ends in a tie, the motion fails.<sup>2</sup>

### **11. Executive session**

The board may, at any time, retire into executive session to consult with the assigned assistant attorney(s) general at the Oregon Department of Justice or as permitted by [ORS 192.660](#). The board will meet in executive session to discuss trade secret information. The board will not deliberate concerning whether to subject a prescription drug to an affordability review, or otherwise make any final decision of the board in executive session.

Upon reconvening the open meeting at the conclusion of the executive session, all members will maintain the confidentiality of the information discussed and/or legal advice provided in executive session.<sup>3</sup> The board will ensure that electronic recordings of executive sessions are securely stored and will only be disclosed if required under the Oregon Public Records Law, [ORS Chapter 192](#).

### **12. Meeting attendance, absences, and participation**

Board members are expected to make every effort to attend board meetings. Members may participate in a meeting in person, by telephone, or any other means of electronic communication by which all persons participating in the meeting can hear each other at the same time. If a member is unable to attend a meeting, the member must notify the chair and executive director prior to the meeting. Under [ORS 182.010](#) through ORS 182.020, any member of a state board or commission appointed by the governor who fails to attend two consecutive meetings of the board or commission, whether regular, adjourned or special, shall forfeit office unless the member is prevented from attending by the serious illness of a member or the family of the member or for any other cause that in the judgment of the governor constitutes a valid reason for failing to attend. The governor shall immediately appoint a successor.

### **13. Board members are public representatives**

Members of the board are public representatives, appointed by the governor 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. Members accept appointment to the board with the understanding that they will represent the public interest in their actions and decisions on the board.

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<sup>2</sup> Attorney General's Public Records and Meetings Manual 2019, Appendix K – Parliamentary Procedure, Quorums and Voting. Oregon Department of Justice. <https://www.doj.state.or.us/oregon-department-of-justice/public-records/public-records-and-meetings-law/>

<sup>3</sup> Attorney General's Public Records and Meetings Manual 2019, II. Public Meetings, E. Executive (Closed Sessions). Oregon Department of Justice. [https://www.doj.state.or.us/oregon-department-of-justice/public-records/attorney-generals-public-records-and-meetings-manual/ii-public-meetings/#\\_Toc11743475](https://www.doj.state.or.us/oregon-department-of-justice/public-records/attorney-generals-public-records-and-meetings-manual/ii-public-meetings/#_Toc11743475)

#### **14. Use of state email accounts**

State email accounts should be used only to send or receive information to or from the board staff. When sending or replying to board staff, members should not reply all so as to avoid a situation of appearance of board business being discussed in a setting that should otherwise be public. If board members receive communications from the public about board business, board member should forward those communications to the PDAB Executive Director Ralph Magrish at [Ralph.M.Magrish@dcbs.oregon.gov](mailto:Ralph.M.Magrish@dcbs.oregon.gov).

#### **15. Board Issued iPads**

Board members are provided iPads and should be used only to conduct board business. Board members are to log into their iPads regularly and comply with security procedures and instructions to update systems when notified through email. If a member has any login issues, the iPad is damaged, or stolen they are to contact DFR Techs or PDAB staff as soon as possible.

Members are to return their iPads to DFR Techs or PDAB staff once their service term ends.

#### **16. Coordinating with other entities**

The board may, from time to time, coordinate with other boards, commissions, industry, educational institutions, and state agencies where the responsibilities and interests overlap in creating transparency for the cost of prescription drugs and determining the affordability of prescription drugs for Oregon consumers.

#### **17. Interaction with the media and lobbyists**

Unless otherwise delegated to them by a majority vote of the board, individual board members do not have the authority to speak on behalf of the board. The board operates as a single entity when communicating with external parties. If board members receive media requests related to their board work and participation, they should notify the PDAB Executive Director Ralph Magrish at [Ralph.M.Magrish@dcbs.oregon.gov](mailto:Ralph.M.Magrish@dcbs.oregon.gov).

#### **18. Department of Consumer and Business Services staff**

Board staff shall provide support to the board including serving as the recording secretary for the board; coordinating board meeting times, location (virtual or otherwise), materials, and other logistics; compiling information necessary for the board to conduct affordability reviews, administrative rule development, drafting and filing, policy issue brief development, data analysis, and additional tasks as delegated by the board.

The staff may also provide support to the board in preparing policy recommendations to the Legislative Assembly and preparation of annual reports to the Legislative Assembly (pursuant to [ORS 646A.693 through ORS 646A.697](#)).

The DCBS on behalf of the board, may enter into contracts with qualified, independent third parties for services necessary to carry out the powers and duties of the board. All

contractors are required to enter into a nondisclosure agreement to protect trade secret, confidential, or proprietary information.

The board may also delegate particular tasks to DCBS on a case-by-case basis to perform its duties.

#### **19. Annual review**

The board will review this policy and the conflict of interest policy at least annually.