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November 6, 2026

Oregon Prescription Drug Affordability Board
350 Winter Street NE
Salem, OR 97309-0405
pdab@dcbs.oregon.gov

Re: Oregon Prescription Drug Affordability Board: October 21, 2026, Meeting Materials

Dear Members of the Oregon Prescription Drug Affordability Board:

The Pharmaceutical Research and Manufacturers of America ("PhRMA") is writing in response to the Oregon Prescription Drug Affordability Board's (the "PDAB's" or "Board's") meeting materials for its October 21, 2026, meeting ("October Board Meeting"), which include the 2026 drug review roadmap, 2026 draft policy recommendations, and drug review materials for the drugs under review in 2026 (collectively, the "Meeting Materials").[1] PhRMA represents the country's leading innovative biopharmaceutical research companies, which are focused on developing innovative medicines that transform lives and create a healthier world. Together, we are fighting for solutions to ensure patients can access and afford medicines that prevent, treat, and cure disease. PhRMA member companies have invested more than $900 billion in the search for new treatments and cures over the last decade, supporting nearly five million jobs in the United States.

We provide below select, non-exhaustive comments and concerns with respect to the Meeting Materials for the October Board Meeting.

I. Affordability Review Process

PhRMA reiterates its concerns about the lack of clear, consistent, and non-arbitrary standards governing the Board's affordability review process, including concerns regarding the definition of affordability and the Board's scoring framework.[2] PhRMA also continues to maintain that the Board must develop standards that promote consistent and transparent affordability reviews, guard against arbitrary decision-making, and

[1] Meeting Materials (Oct. 21, 2026), *available at* https://dfr.oregon.gov/pdab/Documents/20261021-PDAB-document-package.pdf. In filing this comment letter, PhRMA reserves all rights to legal arguments with respect to Oregon Senate Bill 844 (2021), as amended by Oregon Senate Bill 192 (2023), Oregon Senate Bill 289 (2025), and Oregon House Bill 4040 (2026) (codified at Or. Rev. Stat. § 646A.693 *et seq*.) (collectively, the "PDAB Statute"), and the Board's implementation of the PDAB Statute. PhRMA also incorporates by reference all prior comment letters to the extent applicable. *See, e.g.*, Letter from PhRMA to Board (Oct. 6, 2026); Letter from PhRMA to Board (May 4, 2026); Letter from PhRMA to Board (Mar. 5, 2026); Letter from PhRMA to Board (Feb. 9, 2026); Letter from PhRMA to Board (Jan. 9, 2026); Letter from PhRMA to Board (Nov. 16, 2025); Letter from PhRMA to Board (Nov. 5, 2025); Letter from PhRMA to Board (Oct. 3, 2025); Letter from PhRMA to Board (Aug. 18, 2025); Letter from PhRMA to Board (Jan. 11, 2025); Letter from PhRMA to Board (Jan. 7, 2025); Letter from PhRMA to Board (Nov. 26, 2024); Letter from PhRMA to Board (Sept. 15, 2024); Letter from PhRMA to Board (June 28, 2024); Letter from PhRMA to Board (Apr. 13, 2024); Letter from PhRMA to Board (Nov. 11, 2023); Letter from PhRMA to Board (Oct. 15, 2023); Letter from PhRMA to Board (Oct. 6, 2023); Letter from PhRMA to Board (Sept. 16, 2023); Letter from PhRMA to Board (May 14, 2023); Letter from PhRMA to Board (Apr. 16, 2023).

[2] *See, e.g.*, Letter from PhRMA to Board (Oct. 6, 2026) at 1; Letter from PhRMA to Board (Feb. 9, 2026) at 2–3; Letter from PhRMA to Board (Nov. 16, 2025) at 3; Letter from PhRMA to Board (Nov. 5, 2025) at 2–3; Letter from PhRMA to Board (Oct. 3, 2025) at 2; Letter from PhRMA to Board (Aug. 18, 2025) at 3; Letter from PhRMA to Board (Jan. 7, 2025) at 3.

enable the public to meaningfully engage with Board decisions.[3]

PhRMA also emphasizes the importance of clear and consistent communication about timelines for affordability reviews and other Board activities, opportunities for meaningful stakeholder engagement in those activities, and any changes to timelines, agendas, or other Board materials.[4] The PDAB Statute requires the Board to "[p]rovide an opportunity for public comment at each open meeting of the board" and to "[p]rovide the public with the opportunity to submit written comments on any pending decision of the board."[5] Stakeholders rely on clear communication from the Board to take advantage of these opportunities. Accordingly, the Board should timely communicate to stakeholders about timelines, comment opportunities, and other Board matters and provide sufficient advance notice of any changes thereto.

II. 2026 Draft Policy Recommendations

PhRMA provides below select comments and concerns with respect to the "draft policy recommendations" in the Meeting Materials.[6]

A. "Expand PDAB Scope Beyond Current Affordability Reviews for Individual Drugs"

PhRMA appreciates the Board's recognition that factors throughout the supply chain impact affordability and access for Oregon patients and reiterates the need to address the practices that drive patients' out-of-pocket costs, such as benefit design choices and other pharmacy benefit manager ("PBM") and health insurer practices.[7] PhRMA supports examining these factors and their impacts on Oregon patients.[8] However, PhRMA is concerned that the Board's recommendation, as written, is overly broad.

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[3] *See* Letter from PhRMA to Board (Oct. 6, 2026) at 1; Letter from PhRMA to Board (Feb. 9, 2026) at 2–3; Letter from PhRMA to Board (Nov. 5, 2025) at 2–3; Letter from PhRMA to Board (Oct. 3, 2025) at 4–5; *see also Feitelson v. City of Salem*, 46 Or. App. 815, 822 (1980) ("If there is to be any meaningful judicial review, an agency must demonstrate that it has considered the factors prescribed by statute and its own regulations and has not acted in an arbitrary manner or on an ad hoc basis"); *Sun-Ray Drive-In Dairy, Inc. v. Or. Liquor Control Comm'n*, 16 Or. App. 63, 72 (1973) ("The danger of inconsistent, subjective and ad hominem decision making is minimized by the deliberate adoption of written, published policy standards applicable alike to all[.]").

[4] The Board recently provided seemingly conflicting information about when it would begin voting on affordability determinations. At the Board's September 16, 2026, meeting, the drug review timeline did not show an upcoming vote, Board staff explained that drugs not brought back for further discussion "will be voted on in November," and the approved minutes of that meeting stated that the Board identified drugs "for further *discussion* at the Oct. 21 board meeting." *See* September Meeting Materials (Sept. 16, 2026) at 1, 28, https://dfr.oregon.gov/pdab/Documents/20260916-PDAB-document-package.pdf ("Agenda" and "Drug review and annual report calendar"); Board, Meeting Recording at 3:13:31–3:14:13 (Sept. 16, 2026), *available at* https://www.youtube.com/watch?v=Ka0ND0neLdU; *see also id.* at 3:43:20, 3:51:03; Board, PDAB Meeting Minutes at 2 (Sept. 16, 2026) (emphasis added), https://dfr.oregon.gov/pdab/Documents/20260916-PDAB-approved-minutes.pdf. Moreover, the October Meeting Materials indicated that the purpose of the drug review section of that meeting was, among other things, to "[d]etermine factors that support or remove a drug from *further review*." Meeting Materials at 17. Yet the October agenda included a "[p]otential vote on all drugs" under review, and the Board's drug review timeline was updated to add a vote on drugs for the Board's final report. *Id.* at 1, 5. At the October Board Meeting, Board staff acknowledged that the vote had not always appeared on the timeline and was added when the roadmap was updated for the meeting. Board, Meeting Recording at 24:41–25:19 (Oct. 21, 2026), https://www.youtube.com/watch?v=HiQnNU4jWA8. PhRMA recognizes that the Board's calendar is "a rolling document and subject to change," but urges the Board to clearly and timely notify stakeholders of any significant timeline or agenda change and the reason for it. Meeting Materials at 5.

[5] *See* Or. Rev. Stat. § 646A.693(13)(c)–(d).

[6] Meeting Materials at 6 (links to recommendations), 7–13 (accompanying presentation).

[7] *See, e.g.*, Letter from PhRMA to Board (Oct. 6, 2026) at 2–3; Letter from PhRMA to Board (Apr. 13, 2024) at 2; Letter from PhRMA to Board (Apr. 16, 2023) at 3.

[8] *See, e.g.,* Letter from PhRMA to Board (Oct. 6, 2026) at 2–3; Letter from PhRMA to Board (Apr. 13, 2024) at 2.

The Board recommends amending Or. Rev. Stat. § 646A.694 to make individual-drug affordability reviews discretionary and authorize broader reviews of prescription drug affordability and access, while leaving the development of review procedures to future rulemaking.[9] Although the proposal lists examples of subjects the Board could review, it would authorize review based on a "broad, nonexclusive list of review subjects," without defining the limits of that authority or the criteria the Board would use to select and evaluate subjects for review beyond whether they "present clear and actionable concerns."[10] Without that specificity, stakeholders cannot meaningfully evaluate the Board's proposal and provide informed comments.

B. "Orphan Drug Review Refinements"

PhRMA continues to oppose the recommendation to amend the orphan drug exemption in Or. Rev. Stat. § 646A.694(2) to permit the Board to conduct affordability reviews of drugs with orphan designations that also have been approved for non-orphan indications.[11] The Oregon Legislature was clear when it enacted a categorical exemption for all drugs designated by the Food and Drug Administration ("FDA") for a rare disease or condition under 21 U.S.C. § 360bb.[12] That exemption applies to orphan-designated drugs as a whole, not merely their orphan-designated indications. Oregon's categorical exemption recognizes the significance of these drugs and the need to limit regulatory actions that could undermine the incentives that are critical to rare disease drug development.[13] PhRMA therefore urges the Board not to recommend amendments to the orphan drug exemption in its annual report to the Legislature.

C. "Address Key Issues in PBM Practices"

PhRMA appreciates the Board's continued attention to the role of PBM practices in driving prescription drug costs. We continue to support efforts to increase consumer choice, reduce out-of-pocket costs, and ultimately promote patient access to medicines, including policies that address these PBMs practices.[14] As the Board recognizes, PBM business practices "affect[] costs and patient access."[15] Increased transparency would help further the Board's affordability goals and hold PBMs accountable.[16]

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[9] Expand Oregon PDAB review authority and flexibility (Oct. 13, 2026) at 1–2, https://dfr.oregon.gov/pdab/Documents/PDAB-Scope-Expansion-Recommendation.pdf ("Expand PDAB Authority Recommendation").

[10] *Id.* at 1–2.

[11] Oregon PDAB orphan drug review refinement (Oct. 13, 2026) at 3–4, https://dfr.oregon.gov/pdab/Documents/PDAB-Orphan-Drug-Review-Refinement-Recommendation.pdf ("Orphan Drug Review Recommendation"); *see* Letter from PhRMA to Board (Oct. 6, 2026) at 3. The draft recommendation also presented an alternative that would have removed the orphan drug exemption altogether, which PhRMA likewise opposes. Orphan Drug Review Recommendation at 2–3. The Board removed that alternative from the recommendation at the October Board Meeting. Board, Meeting Recording at 2:36:40–2:39:21 (Oct. 21, 2026), https://www.youtube.com/watch?v=HiQnNU4jWA8.

[12] *See* Or. Rev. Stat. § 646A.694(2) (providing that "[a] drug that is designated by the Secretary of the United States Food and Drug Administration, under 21 U.S.C. 360bb, as a drug for a rare disease or condition *is not subject to review* under [the PDAB Statute]" (emphasis added)); Letter from PhRMA to Board (Oct. 6, 2026) at 3; Letter from PhRMA to Board (May 4, 2026) at 1–2; Letter from PhRMA to Board (Feb. 9, 2026) at 3; Letter from PhRMA to Board (Jan. 7, 2025) at 4.

[13] The Orphan Drug Act ("ODA"), Pub. L. No. 97-414, 96 Stat. 2049 (1983), was enacted by Congress in 1983 to incentivize the development of drugs for rare diseases, recognizing that the small patient populations affected by these conditions made drug development financially challenging without targeted support. The ODA provides critical incentives for orphan drug development, including tax credits for clinical testing costs, waiver of some FDA user fees, and seven years of market exclusivity.

[14] Pharmacy benefit manager practices (Oct. 13, 2026), https://dfr.oregon.gov/pdab/Documents/PDAB-PBM-Practices-Recommendation.pdf ("PBM Practices Recommendation"); *see* Letter from PhRMA to Board (Oct. 6, 2026) at 3–4.

[15] PBM Practices Recommendation at 1.

[16] *See* PBM Practices Recommendation at 1; Letter from PhRMA to Board (Oct. 6, 2026) at 4; Letter from PhRMA to Board (Jan. 9, 2026) at 1–2.

While these transparency recommendations are important, PhRMA encourages the Board to strengthen its recommendation by incorporating substantive reforms consistent with the Board's September policy memorandum and the policies discussed at recent Board meetings.[17] Specifically, PhRMA reiterates its support for eliminating spread pricing; delinking PBM compensation from drug prices; and requiring PBMs to share negotiated rebates, discounts, and other price concessions directly with patients at the pharmacy counter.[18] PhRMA also reiterates its support for establishing an explicit duty of good faith and fair dealing.[19] PhRMA urges the Board to advance these reforms to strengthen PBM transparency and accountability.[20]

D. "Commercial Health Plan Continuity of Care Requirement for Prescription Drugs"

PhRMA continues to support the proposal to require that insurers honor prior authorization approvals and step therapy determinations made by a patient's previous health insurance plan for a defined period following transition to the new plan.[21] During this period, patients should be permitted to continue their current therapy, without obtaining a new prior authorization or switching to or stepping through an alternative medication, to reduce interruptions in previously authorized therapies solely due to a change in insurance coverage. Insurers should also be required to provide advance notice before requiring a transition to an alternative drug, with a defined minimum notice period that gives patients and their providers sufficient time to respond.[22] These protections should be reflected in denial and transition communications so that patients are aware of their rights during coverage changes.[23]

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On behalf of PhRMA and our member companies, thank you for your consideration of our comments. Although PhRMA has concerns about the Meeting Materials, we stand ready to be a constructive partner in this dialogue. Please contact dmcgrew@phrma.org with any questions.

Sincerely,





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[17] *See* Policy Memorandum from Cortnee Whitlock to Oregon PDAB, PBM Practices (Sept. 8, 2026), https://dfr.oregon.gov/pdab/Documents/PDAB-PBMpractices-Memo.pdf; PBM Practices Recommendation at 5; Meeting Recording at 1:36:14–1:38:52 (Oct. 21, 2026), https://www.youtube.com/watch?v=HiQnNU4jWA8; *see, e.g.*, Letter from PhRMA to Board (Oct. 6, 2026) at 3–4.

[18] *See* Letter from PhRMA to Board (Oct. 6, 2026) at 3–4; Letter from PhRMA to Board (Jan. 9, 2026) at 1–2; Letter from PhRMA to Board (Nov. 16, 2025) at 3–4; Letter from PhRMA to Board (June 28, 2024) at 5–6.

[19] *See* Letter from PhRMA to Board (Oct. 6, 2026) at 4.

[20] *Id*.

[21] Policy Memorandum from Cortnee Whitlock to Oregon PDAB, Commercial health plan continuity-of-care policy concept (Sept. 8, 2026), https://dfr.oregon.gov/pdab/Documents/PDAB-Commercial-Continuity-of-Care-Memo.pdf; *see* Letter from PhRMA to Board (Oct. 6, 2026) at 5.

[22] *See* Letter from PhRMA to Board (Oct. 6, 2026) at 5.

[23] *Id.*