Oregon Prescription Drug Affordability Board

Oregon Prescription Drug Affordability Board Meeting
Wednesday, August 17, 2022
Minutes
Approved by the board September 21, 2022

Call to Order and Roll Call
Chair Akil Patterson called the meeting to order at 9:33 a.m. and asked for the roll call.

Board Members and Alternate Members Present: Shelley Bailey, Richard Bruno, Daniel Hartung, Akil Patterson, Robert Judge (alternate), Rebecca Spain (alternate).
Board Members Absent: None

Approval of the Minutes
Chair Akil Patterson asked if board members had any changes to the August 3, 2022 minutes on Pages 3-6 in the packet posted online: https://dfr.oregon.gov/pdab/Documents/20220817-PDAB-document-package.pdf.
Hearing none, the chair asked for a motion to approve the minutes. Dr. Bruno moved to approve, and Robert Judge provided a second. The chair asked for a roll call vote.

MOTION by Richard Bruno to approve the August 3, 2022, minutes.
Board Roll Call Vote:
Yea: Richard Bruno, Daniel Hartung, Rebecca Spain, Shelley Bailey, Akil Patterson.
Nay: None.
Motion passed.

Program Update
Executive Director Ralph Magrish said President Biden signed into law the ability for Medicare to negotiate on prescription drug pricing for the first time since Part D's inception in 2003. Starting in 2026, Medicare will begin negotiating the price of 10 drugs, followed by an additional 15 drugs in 2027 and an additional 20 drugs in 2029 and beyond. The negotiation process is for Medicare Part D drugs that lack a generic or comparable alternative, with other drugs under Part D eventually included. The list of 10 drugs selected for negotiation is expected to be made public in 2023. Depending on what the Drug Pricing Transparency program presents to this board for next year's affordability review, he said there could potentially be overlap and lessons learned through that federal negotiating process. Medicare beneficiaries who need insulin will be capped at an out-of-pocket cost of $35, beginning in 2026. The law does not cap the cost of insulin for millions of Americans with private health insurance. He noted insulin costs will be one of the topics at the DCBS Drug Pricing Transparency program public hearing in November or December. Staff invited Civica Rx, the non-profit insulin maker, to speak on a hearing panel. For the catastrophic portion of the new federal law, starting in 2024, people with out-of-pocket drug costs reaching a catastrophic threshold of $7,050 will not have to pay additional money. There will be a $2,000 cap. Currently, no cap exists.

The executive director said he and Chair Patterson had been invited to present at Oregon Legislative Committee Days on September 22 to give updates on the PDAB work plan and deliverables. They will share that board members asked to hear from PDAB chairs and executive directors in Colorado and Maryland states that enabling legislation to do upper payment limits. These representatives will speak at the October meeting of this board. Staff received a presentation from SSR Health, a company with a proprietary database uniquely suited to help the board identify specific information for affordability reviews. Staff is looking into using this data source that

provides information on price concessions, discounts, or rebates that manufacturers provide to PBMs. This Friday, the staff meets with the director of purchasing of prescription drugs at Oregon Health Authority and the contract administrator from the Public Employees' Benefit Board (PEBB) to discuss bulk purchasing processes at the State of Oregon and reverse auctions for PBMs. These are other pieces required for the board's legislative deliverable and analysis of the supply chain. Ralph Magrish has been invited to speak at the National Academy of State Health Policy (NASHP) pre-conference on September 12. He will join a panel presentation entitled, "How States are Addressing Rising Health Care Costs." The panel will also include representatives from the Health Care Cost Growth Target program at Oregon Health Authority and the Washington Health Care Authority prescription drug purchasing programs. Additionally, staff completed the first round of interviews this week for the two data positions. They hope to introduce new staff at the September board meeting. For the two board vacancies, staff anticipates a public announcement with the names from the governor's office, with confirmation hearings in September.

Appointing Alternate Member for Voting
The chair appointed Rebecca Spain to be the alternate voting member for the duration of this meeting due to the current board vacancy and pursuant to board policy.

PDAB Draft Public Comment Policy and Form: Cortnee Whitlock, the policy analyst, presented the revised draft public comment form on Page 9, posted online: https://dfr.oregon.gov/pdab/Documents/20220817-PDAB-document-package.pdf. She reviewed the track changes requested by the board during the August 3 meeting. If approved, staff will accept the changes and post the form on the website. Chair Patterson said the revisions provided equity and asked for a motion and second from the board. Robert Judge asked for clarification about the purpose of the asterisks in the required fields on the form. Cortnee Whitlock said the form is requested but not required. She said staff would clarify that language on the form. Chair Patterson said that would be a technical change so the board could still approve the substantial language changes shown on the document in the board packet. Rebecca Spain asked if the form would be optional for everyone and asked about the asterisks indicating required information. Chair Patterson said the form is voluntary. Ralph Magrish said if a person or organization chooses not to fill out the form, it will be noted when they begin their testimony before the board. Robert Judge asked about the question, "Do you receive funding…" and wondered if it only refers to a speaker and not the organization they represent. Ralph Magrish agreed about that important distinction. Richard Bruno said it could be resolved with a motion to approve the form with the amendment, "Do you or your organization receive funding…" Robert Judge said that would address his concern. Richard Bruno moved to approve the form with the amendment of the form, and Shelley Bailey provided a second. The chair clarified that the board can approve the form today because the amendments are technical fixes and would not substantially change the form presented to the board. He called for the vote.

MOTION by Robert Judge to approve the amended form with the added language "do you or your organization..."
Board Roll Call Vote
Yea: Richard Bruno, Daniel Hartung, Rebecca Spain, Shelley Bailey, Akil Patterson.
Nay: None
Motion Passed.

Chair Akil Patterson asked for a motion to approve the entire document, PDAB Public Comment Policy and Form. Richard Bruno moved to accept the changes as presented. Shelley Bailey provided a second.

MOTION by Robert Judge to approve the PDAB Public Comment Policy and Form.
Board Roll Call Vote

Yea: Richard Bruno, Daniel Hartung, Rebecca Spain, Shelley Bailey, Akil Patterson.
Nay: None
Motion Passed.

Presentation of Proposed Work Plan
Cortnee Whitlock, policy analyst, reviewed the outlines for the three reports described in the work plan presented at the July 20 board meeting found on Pages 10-22 posted online: https://dfr.oregon.gov/pdab/Documents/20220817-PDAB-document-package.pdf.

Generic Drugs Report
Cortnee Whitlock asked board members for additional information to include in each report, beginning with generic drugs.

* Daniel Hartung requested the report also look at biosimilars. He said there are important and complicated distinctions between biosimilars and generic drugs.

* Robert Judge said there are two sides to pharmaceutical pricing, acquisition cost, and sales price. He recommended looking at pricing as reported through the supply chain, from the manufacturer to the wholesaler, to the pharmacy, which is really the acquisition side. He also recommended looking at it from a consumer perspective, which is pricing from the pharmacy, through the PBM, through the payer, to the consumer, or the other way around - payer, PBM, pharmacy, consumer. To really understand what's happening in the generic market, the report should look at the cost to procure and the cost to sell because that is where the consumer issues lie. Regarding the marketing budget, he recommended the report look at what are the influencers of cost. Factors that influence the cost for generic drugs at the point of sale include the number of manufacturers manufacturing a generic drug, the ingredients availability or shortages for the drug, wholesaler markup as the drug goes through the supply chain, and PBM max, he said.

* Shelley Bailey said the report also needs to look at the reimbursement side, specifically issues like maximum allowable price. There are public data sources with pricing information, including the Oregon Health Plan Fee-For-Service program. She said there are two sides to drug pricing, the procurement side and the reimbursement side, and one can't be reviewed without the other. She said the reimbursement side impacts payers significantly in this state. She asked if Trevor Douglass from Oregon Health Authority could present to this board.

* Richard Bruno said it would be helpful for the board to have the background on patent law as it relates to the extension of patents and the year and timeline of patents as it plays into the generic rollout.

* Shelley Bailey said it would be helpful to look at whether drugs are single source brand generics or multi-source brand drugs, along with dispense timelines for both. She recommended the report look for underutilized generics within a therapeutic class and brand spend when generic medications are available.

* Robert Judge said it might be educational for the board and certainly important for this report to understand what a formulary is and what a preferred drug list is. He said, there may be instances where generics are available but are not the lowest net cost option available when factoring in rebates. In today's marketplace, typically rebates are not delivered at the point of sale because they get paid up to two years after the transaction has been completed. But they do factor in premiums, which affect consumers as well. There may be behavior considerations of preferred drug lists that influence generic use.

* Rebecca Spain said this might fall under players involved in the generic drug marketplace, but she wants to make sure the report examines pharmacy benefits managers (PBMs) specifically. Ralph Magrish thanked board members for the feedback and said he would follow up on the request for presentations at future board meetings. He said, regarding brand drugs being on a state preferred drug list, there are strict guardrails around the ability to disclose or speak at an aggregated level because of federal regulations or contracts signed between the State of Oregon and individual manufacturers. But to the extent that information can be provided, staff will coordinate that kind of presentation.

Distribution and Payment System Report

Cortnee Whitlock moved to the outlines shown on Pages 15-17 and asked for board feedback.

* Shelley Bailey said she agreed with Dr. Spain about the report looking at pharmacy benefit managers. The report could also look at the relationship of the PBMs currently working with state-managed care organizations and the Public Employees Benefits Board (PEBB) public employees fund. The report could look at the impact of PBMs on those user groups, what the structures of rebates are, and the impact of capitation rates from the Oregon Health Authority to those nonprofit Coordinated Care Organizations. She said it has a meaningful impact on the state of Oregon when looking at cost savings.

* Robert Judge said, to add to Shelley Bailey's point, the report needs some level setting, describing or defining what an upper payment model looks like, whether it controls what the manufacturer charges for a drug or what a payer pays for that drug, with rebates. He is unsure of the mechanism for how the upper payment limit makes its way to the consumer. Having a baseline described in the report would be fundamental. Ralph said the board would hear upper payment limit presentations in October from Colorado and Maryland, providing a baseline context of the model. The Oregon PDAB does not have the legislative authority to do upper payment limits, which will be part of the study and recommendations to the legislature.

* Dan Hartung said this would be a general report about the distribution payment system across multiple payers in the state of Oregon. He recommends the report include a description or summary of how the rebate discount system in various sectors influences list price inflation and how that, in turn, negatively affects patient out-of-pocket costs, and how those factors differ by a different kind of payer system. Dr. Hartung said that Medicaid and Medicare are different from the private sector, and out-of-pocket costs will dramatically vary for consumers in those sectors. He thinks it would be informative if the report included a broad discussion about the generalities of how those operate.

* Robert Judge agreed it would be informative to the public if there were a way to describe it concisely. He asked about an opportunity for the board to understand what a reverse auction is and how it works. Ralph Magrish said staff reached out to the National Academy of State Health Policy (NASHP) and will speak directly to representatives in states that have done reverse auctions, New Jersey, Maryland, and Minnesota. He said it is a technical process that needs a lot of review before making that recommendation. He said there is a lot of investment on the front end for a technology platform to support a bid process or review.

Price Trends Report

Cortnee Whitlock moved to Pages 18-21 in the board packet, the third report, which won't be completed until June 1, 2023, because the board is not currently reviewing medications or insulin. Staff will provide price trends of prescription drugs to the board. She said the outline would provide background, top drugs by cost and utilization, and generic drugs by brand names and class, with recommendations on any legislation changes. She asked for board member feedback.

* Daniel Hartung said, regarding generic drugs associated by brand name by class, he thinks it is important for the report to summarize what brand names have generics available and what therapeutic classes have generic alternatives. While noting which drugs have generics, he thinks it is important to frame it in terms of therapeutic class where generics are not abundant. He said that generics in classes is a bulwark against brand-name price inflation. It would be useful if the report identified classes where generic alternatives are scarce.

Ralph Magrish said he is delighted with the quality and depth of comments, feedback, and questions the board provides. He said this is a diverse board of clinicians, academics, and pharmacy supply chain folks. He asked board members to forward to staff any peer review literature, academic, or industry-funded reports, as long as it is transparent if it is being funded or underwritten by any group. He said it would be valuable information for staff research and draft report preparation. Cortnee Whitlock thanked the board for their participation and encouraged them to send any other ideas to the email address pdab@dcbs.oregon.gov. Chair Patterson said the board is here to provide recommendations to the state and evaluate the cost of prescription drugs to determine if they present an affordability challenge to consumers and the health system in Oregon. He said the board should be able to do more, and hopefully, the legislature will look for mechanisms to give the board authority to do more for consumers in Oregon.

Announcements
Chair Patterson said the next board meeting would be September 21 at 9:30 am. Executive Director Magrish thanked board members for squeezing four meetings in six weeks. This was necessary and positioned the board well to complete objectives for the rest of the year. Upper payment limit presentations will be at the October meeting. Ralph Magrish will follow up on today's board requests for other presentations in September. He thanked the board for the robust conversation today.

Public Comment
The Chair said the board would move into the public comment. The board did not receive any requests for oral testimony. The board received one written comment from the chair of the PBM Accountability project, and all board members received a copy.

Adjournment
There being no further business before the board, the chair moved to adjourn the meeting at 10:31 am and asked for a voice vote.

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