

SB 872 / HB 3093
-1 Amendment
(As of March 20th, 2019)

1. For all sections that require reporting on an annual basis, clarify that the report is not necessarily supposed to be for the most recent calendar year, but rather for **the preceding 12 months**. For example: if a manufacturer is reporting on price increases and the report is filed at the end of June 2019, the report would need to cover July 2018 - June 2019.
2. On page 33, Section 22 add: **The direct-to-consumer advertising shall include a disclaimer that any one consumer may pay less than this amount.**
3. On page 33, Section 22 add: **Violations shall be subject to civil penalty** (the penalty can mirror existing compliance language from a similar statute).
4. For all sections involving PBM contract requirements under the heading “Fee-Only Pharmacy Benefit Managers for State-Sponsored Programs,” we want the language to read: “...including but not limited to **evaluating** contracting with a pharmacy benefit manager or third party administrator on a fee-only basis. **The board shall require** the pharmacy benefit manager or third party administrator to pass through to the board rebates, incentives or discounts offered by pharmaceutical manufacturers.” (Apply to PEBB, OEBC, CCOs).
5. Under the same heading as mentioned in #4, add a section that requires PEBB, OEBC, and the CCOs to report back to the legislature on this evaluation process and the results no later than May of 2020. For the CCO report, each individual CCO shall report to OHA and OHA shall report to the legislature on their behalf.
6. In Section 11 under “Disclosure of Lesser of Cash Price or Cost-Share and Prohibition of Gag Clauses,” add a subsection (5) with some kind of language like: **“The Board of Pharmacy shall establish by rule language for mandatory postings in all pharmacies informing consumers of these rights.”**
7. Include a new section of reporting requirements for manufacturers according to the Multiple Supply Chain Entities - Rebates recommendation from the official taskforce report:
 - a. **Manufacturers** are required to disclose the total aggregate amount of financial incentives paid to each PBM serving the covered lives of health plans offered by carriers in Oregon. Disclosure should include financial incentives paid to PBMs related to market share including any remuneration for preferred or exclusive status on formularies.
8. Include a new section of reporting requirements for commercial insurers according to the Multiple Supply Chain Entities - Rebates recommendation from the official taskforce report:
 - a. **Commercial health insurers** are required to certify through their annual filing documents the percentage of rebates that were applied to directly offset consumers’ premiums, out-of-pocket costs, and/or directly benefit the consumer. Commercial health insurers are required to report where any percentage of

rebates, not applied to minimize consumers' premiums, were spent.

9. **Include language that extends the Fair Pricing of Prescription Drugs Task Force and expands the mission to include:** The ongoing evaluation of implementation and results of this year's bill (SB 872/HB 3093) and any Oregon statute looking to improve transparency in prescription drugs; review legislation passed in other states on applicability in Oregon; and evaluate strategies for reducing cost of drugs. Report due to the Legislature by September 1, 2020. Extend the sunset of the Taskforce to December 31st of 2021.
10. **Include a new section that requires these reporting elements for insurers:**
 - a. Require commercial insurers to report the following information:
 - i. Average price paid per prescription minus prescription dispensing fee
 - ii. Average product reimbursement
 - iii. Impact of rebates on premium expressed as a percentage
11. Under the heading "Disclosure of Funding of Patient Advocacy Organizations by Pharmaceutical Supply Chain": Reports should go to not to OHA, only to the Government Ethics Commission. In addition, add this or similar language: **"Any reports filed under this Section shall also be provided to the Attorney General upon request."**

General corrections

1. Expand definition of Patient Advocacy Group to include more organizations in the financial giving transparency section.
2. Update definition of "proprietary" and reinforce compliance with trade secret laws in accordance with feedback from Dept of Justice, Dept of Consumer and Business Services, and relevant supply chain entities.
3. Clarify that in the event a consumer pays cash for a drug rather than through their health plan, they shall be responsible for pursuing that the cost be applied towards their deductible or out-of-pocket maximum.