

## FISCAL IMPACT OF PROPOSED LEGISLATION

80th Oregon Legislative Assembly – 2019 Regular Session  
Legislative Fiscal Office

Measure: SB 872

*Only Impacts on Original or Engrossed  
Versions are Considered Official*

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### Measure Description:

Requires pharmaceutical manufacturers to report to Department of Consumer and Business Services total cost of patient assistance programs and information on financial assistance provided to pharmacies, government agencies and advocacy organizations.

### Government Unit(s) Affected:

Department of Consumer and Business Services (DCBS), Oregon Health Authority (OHA), Department of Corrections (DOC), Oregon Youth Authority (OYA)

### Summary of Fiscal Impact:

Costs related to the measure are indeterminate, at this time - See analysis.

### Analysis:

SB 872 requires:

- State-sponsored plans including the Public Employees' Benefit Board (PEBB) and the Oregon Educators Benefit Board (OEBB) to: (1) contract with pharmacy benefit managers and third-party administrators on a fee-only-basis; and (2) require these contracted pharmacy benefit managers or third-party administrators to pass through to the boards rebates, incentives, or discounts offered by pharmaceutical manufacturers.
- Medical providers to include specified information about dispensed prescription drugs in medical billing. Medical providers would also be required to submit this information to the Oregon Health Authority (OHA). The authority would be required to use this information as part of its public reporting about health care costs via its website.
- Health insurance carriers offering group and individual health benefit plans to: (1) publish specified formulary information online, including information on cost sharing and cost tiers, step therapy and prior authorization requirements, and quantity limits; (2) notify members that they may purchase prescription drugs at the pharmacy at the "cash price," if lower than the applicable cost-sharing amount under the plan, and to count members' "cash price" payments toward applicable deductibles or out-of-pocket maximums; and (3) provide 60-day notice of formulary changes to members who would be adversely affected.
- OHA, PEBB, OEBB, the Department of Corrections (DOC), and the Oregon Youth Authority (OYA) to report annually to Legislature about each agency's expenditures for prescription drugs. OHA's Pharmacy and Therapeutics Committee would be required to evaluate this information as part of its determination of any preferred drug list.
- Patient advocacy groups with a budget of more than \$50,000 and registered lobbyists to report specified information about financial contributions from pharmaceutical supply chain entities to the Government Ethics Commission and OHA.
- Pharmacy Benefit Managers (PBM) to: (1) report to the Department of Consumer and Business Services (DCBS) information about rebates, incentives and fees to plan sponsors every three months, including information about the amount of these payments that was passed along to plan sponsors; and (2) submit reports to DCBS detailing the rebates, fees, and reimbursements paid for drugs with a price of \$100 or more for a month's supply or a course of treatment lasting less than a month, and drugs for which the PBM receives an insurer reimbursement of 25% more than the average reimbursement the PBM provides to a pharmacy. The bill authorizes DCBS to prescribe the form and manner of these reports. In addition, PBMs would be prohibited from interfering with the

right of consumers to be educated about the “cash price” of prescription drugs, and must apply “cash price” payments toward applicable deductibles and out-of-pocket maximums.

- Prescription drug manufacturers to (1) disclose wholesale drug prices in advertisements; and (2) to report additional information to DCBS, including the total cost of patient assistance programs to the manufacturer, and information regarding any financial assistance, other than rebates, incentives and discounts, provided by the manufacturer to pharmacies, government agencies, or patient advocacy organizations. The exemption from disclosure for drug manufacturer reports would be expanded to exempt proprietary information, not just trade secret information.

#### Oregon Health Authority (OHA)

Passage of this bill may have an impact on the Health Analytics All Payers All Claims (APAC) program and the Oregon Prescription Drug Program (OPDP). However, this impact cannot be quantified, at this time. APAC currently has no infrastructure or process in place to collect the information from medical providers required by this bill. This provision will require increased staffing to collect, maintain, process, and report on this data. This work will require a new IT procurement to implement the new system structure. With the current committee hearing deadline, there is not enough time and information to formulate a business case to obtain an adequate estimate of IT procurement and staffing costs. In addition, if passage of this bill results in coordinated care organizations and other state-sponsored programs leveraging OPDP, OHA would need additional staff and resources to service the participating entities.

#### Public Employees’ Benefit Board (PEBB), Oregon Educators Benefit Board (OEBB)

PEBB and OEBB report that they currently comply with the fee-only incentive schedule for contracted pharmacy benefit managers and the pass-through rebates, discounts and incentives to the board provisions of the bill. However, at this time PEBB and OEBB cannot quantify the cost of producing the annual report required by the bill.

#### Department of Consumer and Business Services (DCBS)

Passage of this bill may increase the workload for the prescription drug pricing transparency program (DPTP) established by HB 4005 (2018) and administered by DCBS. However, this impact on workload cannot be quantified, at this time because there is insufficient data due to the fact that DPTD is only in its early stages of operation. Administrative rules for the program were adopted March 1, 2019 with the first reporting requirement effective March 15, 2019. DCBS has not received any reports to date. The cost to administer the DPTP was estimated based on program assumptions in 2018. DCBS does not yet know if those assumptions will prove correct.

#### Oregon Government Ethics Commission (OGEC)

OGEC anticipates that it will need to modify its electronic filing system to comply with the provision requiring patient advocacy groups with a budget of more than \$50,000 and registered lobbyists to report specified information about financial contributions from pharmaceutical supply chain entities to OGEC. However, these system development costs cannot be quantified at this time.

#### Department of Corrections (DOC), Oregon Youth Authority (OYA)

The fiscal impact of this bill to DOC and OYA is minimal. DOC and OYA will use existing staff and resources to report annually to the Legislature about each agency’s expenditures for prescription drugs.

This measure warrants a subsequent referral to the Joint Committee on Ways and Means for consideration of its budgetary impact