



February 19, 2019

The Honorable Mitch Greenlick, Chair
House Health Care Committee
900 Court St NE
Salem, OR 97301

Dear Representative Greenlick:

The Biotechnology Innovation Organization (BIO) and the Oregon Bioscience Association respectfully oppose HB 2658, which would require biopharmaceutical manufacturers to notify the Department of Consumer and Business Services (DCBS) prior to increasing the wholesale acquisition cost of a prescription drug. HB 2658 forces companies to disclose competitively sensitive information without any clear public benefit.

Just last year, the Legislature passed HB 4005, which established a number of reporting requirements for biopharmaceutical manufacturers and created the Joint Interim Task Force on The Fair Pricing of Prescription Drugs. This interim task force studied the prescription drug supply chain and reported to the Legislature on "a cost-effective and enforceable solution that exposes the cost factors that negatively impact prices paid by Oregonians for pharmaceutical products." The task force released its report in November of last year.

As you know, the 60-day advance notice requirement in HB 2658 was originally included in last year's HB 4005. This requirement was removed from HB 4005 in amendments passed by this House Health Care Committee. Furthermore, the interim task force considered a number of requirements, including advanced notice of price increases, in developing its comprehensive report to the Legislature. The task force did not recommend that biopharmaceutical manufacturers provide notice prior to implementing a price increase.

Notifying DCBS in advance of a price increase will provide no benefit to Oregon patients. First, most patients with health coverage do not pay wholesale acquisition cost or "list price" unless their insurance provider chooses to not pass any rebates to the patient—bringing to question an entirely different problem. Second, the information sought by this bill is already being made public in California pursuant to untested legislation implemented in that state just over a year ago. Lastly, this bill does not require DCBS to do anything with this information.

We are concerned that this bill's requirement to provide advance notice of price increases would have serious unintended consequences for the drug supply chain. The substantial advanced notice would provide enough time for providers and PBM-owned pharmacies in particular to engage in stockpiling activity in advance of a price increase. Such activity would disrupt the availability of medicines not only in Oregon, but nationwide. This problem is particularly sensitive for biologic medicines that often have limited distribution and cannot respond to sudden shifts in demand.

Additionally, the unintended market effects of advanced notice reporting, such as that included in this bill, are unknown. If a drug manufacturer's competitors know of pricing decisions prior to those decisions taking effect, those competitors may use this in anticompetitive ways. Although the intent of this bill may be to increase understanding of prescription drug pricing, it could inadvertently have results similar to decreased competition through conscious parallelism.

For these reasons, we respectfully request your "no" vote on HB 2658.

Sincerely,



Brian Warren
Director, State Government Affairs
Biotechnology Innovation Organization



Julie Black
Interim Executive Director
Oregon Bioscience Association

cc: Members, House Health Care Committee