



March 20, 2019

Senator Laurie Monnes Anderson, Chair  
Senate Committee on Health Care  
Oregon State Legislature

**Re: SB 872**

Dear Chair Monnes Anderson, Vice-Chair Linthicum, and Committee Members:

The Oregon Coalition for Affordable Prescriptions (“OCAP”) is a non-profit corporation and political coalition with members including consumers, advocates, health benefit companies, and health care providers. Over the last few years, we have consistently pushed for policies that will rein in the high cost of prescription drugs in Oregon. In 2018, we supported passage of HB 4005, critical transparency legislation that has created a foundation for further, concrete actions on drug pricing.

While HB 4005’s primary purpose was to expose where the money is going when drug companies raise prices, it also created the Joint Task Force on the Fair Pricing of Prescription Drugs to consider the potential application of additional transparency measures on other parts of the pharmaceutical supply chain. The bill before this committee today is a product of that work.

As you are aware, the pharmaceutical supply chain is incredibly complex, and there is no doubt that multiple stakeholders have a role in causing the high cost of prescription drugs. More transparency is good - and there are good ideas in this bill, including several which OCAP supports as part of other bills this session. However, the bill as introduced also contains language that would cause significant damage to the drug price transparency program created by 2018 HB 4005, and it must be amended before moving forward.

### **Drug Companies Must Not Be Permitted to Shield “Proprietary” Information From Disclosure Under HB 4005’s Reporting Regime**

As introduced, SB 872 includes a change to HB 4005’s transparency regime, that would allow drug manufacturers to exclude “proprietary” information from required



disclosures. Currently, only “trade secrets” can be excluded. This change would create a loophole in the drug price transparency program that effectively renders HB 4005’s disclosure requirements irrelevant.

Under current law, drug companies are given adequate protection by the exclusion of trade secrets from reporting. “Trade Secret” is a well defined term of art in Oregon law, and the trade secret status of a particular disclosure is practically ascertainable. DCBS went through extensive rule-making to ensure that trade secret protections are preserved in HB 4005’s implementation, as well as to verify that any claimed exemptions are legitimate trade secrets. “Proprietary Information,” by contrast, is legally meaningless, and would give manufacturers free rein to claim all manner of materials as exempt.

We are expecting the first reports under the drug price transparency program in a matter of months, and the first report on its findings in December. The legislature should not be taking steps to weaken this critical program before it even goes into effect. If this committee chooses to move SB 872 forward, it must be amended to remove the language related to “proprietary information.”

### **OCAP Supports Advertising Price Disclosure**

OCAP supports requiring drug manufacturers to disclose the list price of prescription drugs in advertising. This concept is also contained in a standalone bill, HB 2961.

There has been a concerted effort by drug manufacturers to keep prices obscured from patients - and this opacity has helped create an environment where there is little incentive to keep the list price of drugs low. Instead, wholesale prices are driven to astronomical highs as part of manufacturer’s negotiating strategy.

HB 2961 will help peel back one layer of secrecy on drug pricing for consumers. While the patient population that has to pay the entire list price out-of-pocket is relatively small, knowing the price of brand name medications makes all patients more aware of potential costs, and thus better equipped to make informed decisions on their health care needs. Patients on pharmacy benefit plans with limited copay coverage pay the cash price for drugs before meeting their plan deductible, and even patients with more generous insurance benefits will face higher co-pays for more expensive drugs. It’s far easier for a consumer to understand why a particular medication is in a higher tier and



requires a higher co-pay when they're aware up-front that the drug costs thousands of dollars for a course of treatment - and that most of the cost has still been paid by their insurance.

### **OCAP Supports Advance Notice of Planned Price Changes**

SB 872 would require health benefit carriers to give affected enrollees 60-days advance notice of planned formulary changes. OCAP generally supports the concept of giving advance notice to patients about price changes that impact them, as it gives them time to prepare and reduces the shock of sudden price changes. We believe this policy goes hand in hand with requiring manufacturers to give 60-days advance notice of price changes, as would be required by another bill, HB 2658.

A similar policy to HB 2658 has already been in effect in California since last year, and national news stories have highlighted the information exposed by California's law in December and over the summer. Increasing the transparency around planned price increases will make it more possible for market forces to respond to changes, and alongside other policies to control spending it is an important step towards reining in the high cost of prescription drugs.

Thank you for your time and consideration.

Respectfully Submitted,

Mark O. Griffith  
Oregon Coalition for Affordable Prescriptions  
Board President & CEO