Oregon Bioscience Association

Biotechnology Innovation Organization

June 10, 2018

Re: **Opposition to SB 872 and -8 amendments**

Senators and Representatives,

As a Governor's Appointee to the Task Force on Fair Pricing of Prescription Drugs ("HB 4005 Task Force"), I'd like to express concern for the substance of the -8 amendment to SB 872. The crafting of this amendment is contrary to the type transparency and fairness it attempts to implement. In addition to the substantive concerns for the bill to Oregon's growing, yet fragile biotechnology sector, this proposal significantly exceeds the recommendations of the HB 4005 Task Force. My company just completed a major transaction with a new, out-of-state investor, and I know first-hand how biotech companies evaluate regulatory and compliance risks for small, Oregon companies.

I'm concerned that while the legislature and Governor took significant time and resources to create a balanced task force to address the prescription drug development and distribution chain, this amendment exists without vetting by that same group, or significant stakeholder review. The HB 4005 process, from drafting to rulemaking and task force review included open meetings, appointment of chairs from two state agencies, and participation by a broad and thoughtful group of industry professionals and community members. Now, at the conclusion of the session, we're seeing a material departure from the original recommendations, without participation of those same stakeholders or substantive public hearings.

My colleagues in the biotechnology and personalized medicine sector in Oregon, and other members of the organization I chair, Oregon Bioscience Association, voiced significant concerns over protection of valuable proprietary information and trade secret. Despite several bills this session that were discussed during the HB 4005 process being proposed or passed this session (HB 2658, SB 872, HB 3093, HB 2961), there has yet to be a serious dialogue about the unresolved issues with the current laws requiring disclosure over trade secrets and private, proprietary information. Yet, this amendment represents a significant overhaul with significant new risks and requirements unaddressed in those processes.

We have consistently asked for disclosure requirements of HB 4005 to more closely resemble those passed in California and Washington, and instead, are now seeing further erosion of protecting this valuable information. The -8 amendments to SB 872 will only serve to dissuade investment in Oregon biotech firms and potentially expose manufacturers, developers and start-ups to new liability. Such liability and related compliance costs only continue to drive up the expense of doing business and challenges in accessing capital.

As I have expressed multiple times in testimony, and as a member of the HB 4005 Task Force, certain requirements, such as those included in the -8 amendment, may be impossible to comply with from a reporting standpoint. Particularly for small companies without significant financial resources or staff.

This is exactly why HB 4005 was vetted for several sessions and included a months-long rulemaking process. As to additional technical concerns, **none of which were included in the HB 4005 recommendations**:

- The -8 amendments significantly change the underlying reporting requirements from HB 4005, including the timeframes for reporting and responses. These changes were not included in the HB 4005 Task Force, and the Department of Consumer and Business Services has not even received its first-round of reports under HB 4005. Why change the existing structure before it has been implemented?

- The -8 amendments broaden and expand patient assistant reporting far beyond HB 4005 and what was recommended by the HB 4005 Task Force**.** With the seemingly only benefit of the language to shift patient assistant program benefits from individual patients towards large insurers and their rate setting process.

- The -8 amendments further erode confidential and trade secret protections by allowing public employees to disclose trade secrets and enjoy legal immunity. This risks both innovation and development of new treatments and cures.

- The -8 amendments allow rules assessing an additional fee on manufacturers, and would only serve to increase the price of prescription drugs: branded, generic, and novel products.

- The -8 amendments expand the Department of Consumer and Business Services' ability to request additional information from manufacturers, and exposes manufacturers attempting to comply with the law to additional liability.

Again, the proposed -8 amendments to SB 872, are problematic from a public process standpoint by ignoring the significant time invested by the HB 4005 Task Force and agency rulemaking. They are significantly costly and challenging for Oregon's existing small companies as well as our industry's ability to attract outside investment into our state and growing sector.

Oregon Bioscience Association, in its public testimony, can be neutral on a bill that implements the recommendations, removes any regulation of direct to consumer advertising, and addresses the existing reporting law's shortcomings in protecting trade secrets and propriety information. As a member appointed by Governor Brown to serve on the HB 4005 Task Force, I hope we can stand behind fair, transparent processes and a thorough policy review. For those reasons, myself and our member companies are committed to helping find a workable solution to SB 872 but oppose SB 872 and the -2 amendments.

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