

# B-Engrossed Senate Bill 192

Ordered by the Senate May 4  
Including Senate Amendments dated April 5 and May 4

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Health Care for Senator Deb Patterson)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires pharmacy benefit managers to annually report to Department of Consumer and Business Services information about certain rebates, fees, price protection payments and other payments received from prescription drug manufacturers. Requires department to publish aggregated information received from pharmacy benefit managers on department's website.

**Requires Prescription Drug Affordability Board to develop, and to report on to interim committees of Legislative Assembly related to health by September 15, 2024, plan for establishing upper payment limits on certain drugs. Provides that plan must include analysis of how upper payment limits could be implemented by Public Employees' Benefit Board, Oregon Educators Benefit Board, other state-administered health benefits and insurance. Provides that report must include analysis of potential savings or costs for state, insurers, hospitals, pharmacies and consumers.**

Continuously appropriates moneys in Prescription Drug Affordability Account to department.

*[Modifies requirements for reports submitted to department by prescription drug manufacturers.]*

Makes confidential and not subject to disclosure information reported by **prescription drug** manufacturer that includes personally identifiable information about consumer.

Expands membership of Prescription Drug Affordability Board.

Modifies information that department must provide to board.

Limits information that insurer must report to department regarding prescription drugs covered by insurer to coverage provided under health benefit plans.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to prescription drugs; creating new provisions; amending ORS 646A.689, 646A.693, 646A.694,  
3 646A.695, 705.146 and 743.025 and section 9, chapter 598, Oregon Laws 2021; and prescribing an  
4 effective date.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS 735.530 to**  
7 **735.552.**

8 **SECTION 2. (1) As used in this section:**

9 (a) "Carrier" has the meaning given that term in ORS 743B.005.

10 (b) "Manufacturer" has the meaning given that term in ORS 646A.689.

11 (c) "Prescription drug" has the meaning given that term in ORS 646A.689.

12 (2) Not later than June 1 of each calendar year, a pharmacy benefit manager registered  
13 under ORS 735.532 shall file a report with the Department of Consumer and Business Ser-  
14 vices. The report must contain, for the immediately preceding calendar year, the aggregated  
15 dollar amount of rebates, fees, price protection payments and any other payments the  
16 pharmacy benefit manager received from manufacturers:

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (a) Related to managing the pharmacy benefits for carriers issuing health benefit plans  
2 in this state; and

3 (b) That were:

4 (A) Passed on to carriers issuing health benefit plans in this state or enrollees at the  
5 point of sale of a prescription drug in this state; or

6 (B) Retained as revenue by the pharmacy benefit manager.

7 (3) The report described in subsection (2) of this section may not disclose:

8 (a) The identity of a carrier or an enrollee;

9 (b) The price charged for a specific prescription drug or class of drugs; or

10 (c) The amount of any rebate or fee provided for a specific prescription drug or class of  
11 prescription drugs.

12 (4) Information submitted to the department under this section is confidential and not  
13 subject to disclosure except as provided in subsection (5) of this section and ORS 705.137.

14 (5) Not later than October 1 of each calendar year, the department shall publish on the  
15 department's website the aggregated data from all reports filed by pharmacy benefit man-  
16 agers under this section for the preceding calendar year. The department shall publish the  
17 data in a manner that does not disclose confidential information of pharmacy benefit man-  
18 agers.

19 **SECTION 3.** (1) The Prescription Drug Affordability Board established in ORS 646A.693  
20 shall develop a plan for establishing upper payment limits on drugs sold in this state that  
21 are subject to affordability reviews under ORS 646A.694. The plan shall include:

22 (a) A methodology for establishing upper payment limits;

23 (b) An analysis of the resources needed by the board to implement the plan;

24 (c) An analysis of how upper payment limits would be enforced; and

25 (d) An analysis of how upper payment limits could be implemented with respect to:

26 (A) Plans administered by the Public Employees' Benefit Board;

27 (B) Plans administered by the Oregon Educators Benefit Board;

28 (C) Other state-administered health benefits;

29 (D) Health benefit plans, as defined in ORS 743B.005; and

30 (E) Other forms of insurance that provide pharmaceutical benefits, to the extent per-  
31 mitted by federal law.

32 (2) No later than September 15, 2024, the Prescription Drug Affordability Board shall re-  
33 port to the interim committees of the Legislative Assembly related to health, in the manner  
34 provided in ORS 192.245, the following information:

35 (a) A detailed explanation of the plan developed under subsection (1) of this section.

36 (b) An analysis of potential savings from or costs of implementing the plan with respect  
37 to:

38 (A) The state;

39 (B) Insurers;

40 (C) Hospitals;

41 (D) Pharmacies; and

42 (E) Consumers.

43 **SECTION 4.** ORS 705.146 is amended to read:

44 705.146. The Prescription Drug Affordability Account is established as a subaccount in the  
45 Consumer and Business Services Fund created in ORS 705.145, consisting of moneys collected under

1 ORS 646A.695 and moneys that may be appropriated for deposit into the Prescription Drug  
2 Affordability Account by the Legislative Assembly. Interest earned on the account shall be credited  
3 to the account. Moneys in the account are continuously appropriated to the [*Prescription Drug*  
4 *Affordability Board*] **Department of Consumer and Business Services** to carry out ORS 646A.693  
5 to 646A.695.

6 **SECTION 5.** ORS 646A.689 is amended to read:

7 646A.689. (1) As used in [*this section and*] ORS 646A.693 to 646A.695:

8 (a) “Drug” has the meaning given that term in ORS 689.005.

9 (b) “Health care facility” has the meaning given that term in ORS 442.015.

10 (c) “Health care service contractor” has the meaning given that term in ORS 750.005.

11 (d)(A) “Manufacture” means:

12 (i) The production, preparation, propagation, compounding, conversion or processing of a drug,  
13 either directly or indirectly by extraction from substances of natural origin or independently by  
14 means of chemical synthesis, or by a combination of extraction and chemical synthesis; and

15 (ii) The packaging or repackaging of a drug or labeling or relabeling of a drug container.

16 (B) “Manufacture” does not include the preparation or compounding of a drug by an individual  
17 for the individual’s own use or the preparation, compounding, packaging or labeling of a drug:

18 (i) By a health care practitioner incidental to administering or dispensing a drug in the course  
19 of professional practice;

20 (ii) By a health care practitioner or at the practitioner’s authorization and supervision for the  
21 purpose of or incidental to research, teaching or chemical analysis activities and not for sale;

22 (iii) By a health care service contractor for dispensing to a subscriber or delivery to a health  
23 care facility or outpatient clinic owned or operated by the health care service contractor or an af-  
24 filiate of the health care service contractor;

25 (iv) By a centralized repackaging operation for distribution to subscribers of health care service  
26 contractors or to pharmacies, health care facilities or outpatient clinics operated by or affiliated  
27 with a health care service contractor; or

28 (v) By a health care facility for dispensing to a patient or other person.

29 (e) “Manufacturer” means a person that manufactures a prescription drug that is sold in this  
30 state.

31 (f) “New prescription drug” has the meaning prescribed by the Department of Consumer and  
32 Business Services by rule.

33 (g) “Patient assistance program” means a program that a manufacturer offers to the general  
34 public in which a consumer may reduce the consumer’s out-of-pocket costs for prescription drugs  
35 by using coupons or discount cards, receiving copayment assistance or by other means.

36 (h) “Prescription drug” means a drug that must:

37 (A) Under federal law, be labeled “Caution: Federal law prohibits dispensing without pre-  
38 scription” prior to being dispensed or delivered; or

39 (B) Under any applicable federal or state law or regulation, be dispensed only by prescription  
40 or restricted to use only by health care practitioners.

41 (i) “Price” means the wholesale acquisition cost as defined in 42 U.S.C. 1395w-3a(c)(6)(B).

42 (2) No later than March 15 of each year, a manufacturer shall report the information described  
43 in subsection (3) of this section to the department regarding each prescription drug for which:

44 (a) The price was \$100 or more for a one-month supply or for a course of treatment lasting less  
45 than one month; and

1 (b) There was a net increase of 10 percent or more in the price of the prescription drug de-  
2 scribed in paragraph (a) of this subsection over the course of the previous calendar year.

3 (3) For each prescription drug described in subsection (2) of this section, a manufacturer shall  
4 report to the department, in the form and manner prescribed by the department:

5 (a) The name and price of the prescription drug and the net increase, expressed as a percentage,  
6 in the price of the drug over the course of the previous calendar year;

7 (b) The length of time the prescription drug has been on the market;

8 (c) The factors that contributed to the price increase;

9 (d) The name of any generic version of the prescription drug available on the market;

10 (e) The research and development costs associated with the prescription drug that were paid  
11 using public funds;

12 (f) The direct costs incurred by the manufacturer:

13 (A) To manufacture the prescription drug;

14 (B) To market the prescription drug;

15 (C) To distribute the prescription drug; and

16 (D) For ongoing safety and effectiveness research associated with the prescription drug;

17 (g) The total sales revenue for the prescription drug during the previous calendar year;

18 (h) The manufacturer's profit attributable to the prescription drug during the previous calendar  
19 year;

20 (i) The introductory price of the prescription drug when it was approved for marketing by the  
21 United States Food and Drug Administration and the net yearly increase, by calendar year, in the  
22 price of the prescription drug during the previous five years;

23 (j) The 10 highest prices paid for the prescription drug during the previous calendar year in any  
24 country other than the United States;

25 (k) Any other information that the manufacturer deems relevant to the price increase described  
26 in subsection (2)(b) of this section; and

27 (L) The documentation necessary to support the information reported under this subsection.

28 (4) The department may use any prescription drug price information the department deems ap-  
29 propriate to verify that manufacturers have properly reported price increases as required by sub-  
30 sections (2) and (3) of this section.

31 (5) A manufacturer shall accompany the report provided under subsection (2) of this section with  
32 the following information about each patient assistance program offered by the manufacturer to  
33 consumers residing in this state for the prescription drugs described in subsection (2) of this section:

34 (a) The number of consumers who participated in the program;

35 (b) The total value of the coupons, discounts, copayment assistance or other reduction in costs  
36 provided to consumers in this state who participated in the program;

37 (c) For each drug, the number of refills that qualify for the program, if applicable;

38 (d) If the program expires after a specified period of time, the period of time that the program  
39 is available to each consumer; and

40 (e) The eligibility criteria for the program and how eligibility is verified for accuracy.

41 (6) No later than 30 days after a manufacturer introduces a new prescription drug for sale in  
42 the United States at a price that exceeds the threshold established by the Centers for Medicare and  
43 Medicaid Services for specialty drugs in the Medicare Part D program, the manufacturer shall notify  
44 the department, in the form and manner prescribed by the department, of all the following informa-  
45 tion:

- 1 (a) A description of the marketing used in the introduction of the new prescription drug;
- 2 (b) The methodology used to establish the price of the new prescription drug;
- 3 (c) Whether the United States Food and Drug Administration granted the new prescription drug
- 4 a breakthrough therapy designation or a priority review;
- 5 (d) If the new prescription drug was not developed by the manufacturer, the date of and the
- 6 price paid for acquisition of the new prescription drug by the manufacturer;
- 7 (e) The manufacturer's estimate of the average number of patients who will be prescribed the
- 8 new prescription drug each month; and
- 9 (f) The research and development costs associated with the new prescription drug that were paid
- 10 using public funds.
- 11 (7)(a) After receiving the report or information described in subsection (2), (3), (5) or (6) of this
- 12 section, the department may make a written request to the manufacturer for supporting documen-
- 13 tation or additional information concerning the report. The department shall prescribe by rule the
- 14 periods:
- 15 (A) Following the receipt of the report or information during which the department may request
- 16 additional information; and
- 17 (B) Following a request by the department for additional information during which a manufac-
- 18 turer may respond to the request.
- 19 (b) The department may extend the period prescribed under paragraph (a)(B) of this subsection,
- 20 as necessary, on a case-by-case basis.
- 21 (8) A manufacturer may be subject to a civil penalty, as provided in ORS 646A.692, for:
- 22 (a) Failing to submit timely reports or notices as required by this section;
- 23 (b) Failing to provide information required under this section;
- 24 (c) Failing to respond in a timely manner to a written request by the department for additional
- 25 information under subsection (7) of this section; or
- 26 (d) Providing inaccurate or incomplete information under this section.
- 27 (9) Except as provided in subsection (10) of this section, the department shall post to its website
- 28 all of the following information:
- 29 (a) A list of the prescription drugs reported under subsection (2) of this section and the man-
- 30 ufacturers of those prescription drugs;
- 31 (b) Information reported to the department under subsections (3) and (5) to (7) of this section;
- 32 and
- 33 (c) Written requests by the department for additional information under subsection (7) of this
- 34 section.
- 35 (10)(a) The department may not post to its website any information described in subsection (9)
- 36 of this section if:
- 37 (A) The information is conditionally exempt from disclosure under ORS 192.345 as a trade secret;
- 38 and
- 39 (B) The public interest does not require disclosure of the information.
- 40 (b) If the department withholds any information from public disclosure pursuant to this sub-
- 41 section, the department shall post to its website a report describing the nature of the information
- 42 and the department's basis for withholding the information from disclosure.
- 43 (c) A person may petition the Attorney General, as provided in ORS 192.411, to review a deci-
- 44 sion by the department to withhold information pursuant to paragraph (a) of this subsection.
- 45 (11) In accordance with ORS 646A.694, the department shall provide to the Prescription Drug

1 Affordability Board established in ORS 646A.693:

2 (a) Each calendar quarter, a list of prescription drugs included in reports submitted under sub-  
3 sections (2) and (6) of this section; and

4 (b) Access to pricing information submitted to the department under subsections (3), (6) and (7)  
5 of this section.

6 (12) The department shall make available to consumers, online and by telephone, a process for  
7 consumers to notify the department about an increase in the price of a prescription drug. **Any**  
8 **personally identifiable information about a consumer included in a notification provided to**  
9 **the department under this subsection, such as a consumer's name, address, telephone num-**  
10 **ber or electronic mail address, is confidential and not subject to disclosure under ORS 192.311**  
11 **to 192.478.**

12 (13) The department may adopt rules as necessary for carrying out the provisions of this  
13 section[, *including but not limited to rules establishing fees to be paid by manufacturers to be used*  
14 *solely to pay the costs of the department in carrying out the provisions of this section*].

15 (14) No later than December 15 of each year, the department shall compile and report the in-  
16 formation collected by the department under this section to the interim committees of the Legisla-  
17 tive Assembly related to health. The report shall include recommendations for legislative changes,  
18 if any, to contain the cost of prescription drugs and reduce the impact of price increases on con-  
19 sumers, the Department of Corrections, the Public Employees' Benefit Board, the Oregon Health  
20 Authority, the Department of Human Services, the Oregon Educators Benefit Board and health in-  
21 surance premiums in the commercial market.

22 **SECTION 6.** ORS 646A.693 is amended to read:

23 646A.693. (1) The Prescription Drug Affordability Board is established in the Department of  
24 Consumer and Business Services to protect residents of this state, state and local governments,  
25 commercial health plans, health care providers, pharmacies licensed in this state and other  
26 stakeholders within the health care system in this state from the high costs of prescription drugs.

27 (2) The board consists of [*five*] **eight** members [*and three alternates*] appointed by the Governor.

28 (3) The term of office of each member of the board is four years, but a member serves at the  
29 pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint  
30 a successor whose term begins on January 1 next following. A member is eligible for reappointment.  
31 If there is a vacancy for any cause, the Governor shall make an appointment to become immediately  
32 effective for the unexpired term.

33 (4) The appointment of each member of the board is subject to confirmation by the Senate in the  
34 manner prescribed in ORS 171.562 and 171.565.

35 (5) A member of the board is entitled to compensation and expenses as provided in ORS 292.495.

36 (6) The members of the board must be residents of this state with expertise in health care eco-  
37 nomics and clinical medicine.

38 (7) A member of the board may not be an employee of, a board member of or a consultant to a  
39 manufacturer or a trade association of manufacturers.

40 (8) The board shall select one of its members as chairperson and another as vice chairperson,  
41 for terms and with duties and powers necessary for the performance of the functions of the offices  
42 as the board determines.

43 (9) A majority of the members of the board constitutes a quorum for the transaction of business.

44 (10) The department shall appoint an executive director for the board, may employ consultants,  
45 investigators or other staff and shall provide staff support to the board to carry out its duties.

1 (11) The board shall meet at least once every six weeks at a time and place determined by the  
2 chairperson. The chairperson may cancel or postpone a regular meeting if there is no prescription  
3 drug to review. The board may also meet at other times and places specified by the call of the  
4 chairperson or of a majority of the members of the board.

5 (12)(a) The following actions by the board shall be open to the public in accordance with ORS  
6 192.610 to 192.690:

7 (A) Any deliberation on whether to conduct an affordability review of a prescription drug under  
8 ORS [646A.695] **646A.694**; and

9 (B) Any decision or deliberation toward a decision on any matter before the board except as  
10 provided in paragraph (b) of this subsection.

11 (b) The board may meet in executive session to discuss trade secret information.

12 (13) The board shall:

13 (a) Provide public notice of each board meeting at least two weeks in advance of the meeting;

14 (b) Make materials for each board meeting available to the public at least one week in advance  
15 of the meeting;

16 (c) Provide an opportunity for public comment at each open meeting of the board; and

17 (d) Provide the public with the opportunity to submit written comments on any pending decision  
18 of the board.

19 (14) The board may allow expert testimony at board meetings, including when the board meets  
20 in executive session.

21 (15)(a) A member of the board shall recuse the member from decisions related to a prescription  
22 drug if the member, or an immediate family member of the member, has received or could receive  
23 any of the following:

24 (A) A direct financial benefit of any amount deriving from the result or finding of a study, re-  
25 view or determination by or for the board; or

26 (B) A financial benefit from any person that owns, manufactures, or provides prescription drugs,  
27 services or items to be reviewed by the board that in the aggregate exceeds \$5,000 per year.

28 (b) For the purposes of paragraph (a) of this subsection, a financial benefit includes honoraria,  
29 fees, stock, the value of the member's or immediate family member's stock holdings and any direct  
30 financial benefit deriving from the result or finding of a study, review or determination by or for the  
31 board.

32 (c) A conflict of interest shall be disclosed:

33 (A) By the board when hiring board staff;

34 (B) By the Governor when appointing members [*and alternate members*] to the board; and

35 (C) By the board, when a member of the board is recused in any final decision resulting from  
36 a review of a prescription drug.

37 (d) A conflict of interest shall be disclosed at the earlier of:

38 (A) Prior to the first board meeting after the conflict is identified; or

39 (B) Within five days after the conflict is identified.

40 (e) A conflict of interest disclosed under this section shall be posted on the website of the board  
41 unless the chairperson of the board recuses the member from any final decision resulting from a  
42 review of a prescription drug.

43 (f) A posting under paragraph (e) of this subsection shall include the type, nature and magnitude  
44 of the conflict of interest of the member involved.

45 (16) Members [*and alternate members*] of the board, staff and third parties that contract with the

1 board may not accept any gift or donation of services or property that creates a potential conflict  
2 of interest or has the appearance of biasing the work of the board.

3 (17)(a) The board may enter into a contract with a qualified, independent third party for any  
4 service necessary to carry out the powers and duties of the board.

5 (b) Unless permission is granted by the board, a third party hired by the board may not release,  
6 publish or otherwise use any information to which the third party has access under its contract.

7 (18) In accordance with applicable provisions of ORS chapter 183, the board may adopt rules  
8 necessary for the administration of ORS 646A.693 to 646A.695.

9 **SECTION 7.** Section 9, chapter 598, Oregon Laws 2021, is amended to read:

10 **Sec. 9.** Notwithstanding the term of office specified by section 1 [*of this 2021 Act*], **chapter 598,**  
11 **Oregon Laws 2021**, of the members first appointed to the Prescription Drug Affordability Board:

12 (1) [*One member and one alternate*] **Two members** shall serve for a term ending December 31,  
13 2024.

14 (2) [*Two*] **Three** members [*and one alternate*] shall serve for a term ending December 31, 2025.

15 (3) [*Two*] **Three** members, including the chairperson, [*and one alternate*] shall serve for a term  
16 ending December 31, 2026.

17 **SECTION 8.** ORS 646A.694 is amended to read:

18 646A.694. (1) The Department of Consumer and Business Services shall provide to the Pre-  
19 scription Drug Affordability Board each calendar quarter a list of prescription drugs included in  
20 reports submitted to the department under ORS 646A.689 (2) and (6), a list of drugs included in re-  
21 ports submitted to the department under ORS **646A.683 and** 743.025 and a list of insulin drugs  
22 marketed in this state during the previous calendar year. Each calendar year, the board shall  
23 identify nine drugs and at least one insulin product from the lists provided under this subsection  
24 that the board determines may create affordability challenges for health care systems or high out-  
25 of-pocket costs for patients in this state based on criteria adopted by the board by rule, including  
26 but not limited to:

27 (a) Whether the prescription drug has led to health inequities in communities of color;

28 (b) The number of residents in this state prescribed the prescription drug;

29 (c) The price for the prescription drug sold in this state;

30 (d) The estimated average monetary price concession, discount or rebate the manufacturer pro-  
31 vides to health insurance plans in this state or is expected to provide to health insurance plans in  
32 this state, expressed as a percentage of the price for the prescription drug under review;

33 (e) The estimated total amount of the price concession, discount or rebate the manufacturer  
34 provides to each pharmacy benefit manager registered in this state for the prescription drug under  
35 review, expressed as a percentage of the prices;

36 (f) The estimated price for therapeutic alternatives to the drug that are sold in this state;

37 (g) The estimated average price concession, discount or rebate the manufacturer provides or is  
38 expected to provide to health insurance plans and pharmacy benefit managers in this state for  
39 therapeutic alternatives;

40 (h) The estimated costs to health insurance plans based on patient use of the drug consistent  
41 with the labeling approved by the United States Food and Drug Administration and recognized  
42 standard medical practice;

43 (i) The impact on patient access to the drug considering standard prescription drug benefit de-  
44 signs in health insurance plans offered in this state;

45 (j) The relative financial impacts to health, medical or social services costs as can be quantified



1 and compared to the costs of existing therapeutic alternatives;

2 (k) The estimated average patient copayment or other cost-sharing for the prescription drug in  
3 this state;

4 (L) Any information a manufacturer chooses to provide; and

5 (m) Any other factors as determined by the board in rules adopted by the board.

6 (2) A drug that is designated by the Secretary of the United States Food and Drug Adminis-  
7 tration, under 21 U.S.C. 360bb, as a drug for a rare disease or condition is not subject to review  
8 under subsection (1) of this section.

9 (3) The board shall accept testimony from patients and caregivers affected by a condition or  
10 disease that is treated by a prescription drug under review by the board and from individuals with  
11 scientific or medical training with respect to the disease or condition.

12 (4)(a) If the board considers the cost-effectiveness of a prescription drug in criteria adopted by  
13 the board under subsection (1) of this section, the board may not use quality-adjusted life-years, or  
14 similar formulas that take into account a patient's age or severity of illness or disability, to identify  
15 subpopulations for which a prescription drug would be less cost-effective. For any prescription drug  
16 that extends life, the board's analysis of cost-effectiveness must weigh the value of the quality of life  
17 equally for all patients, regardless of the patients' age or severity of illness or disability.

18 (b) As used in this subsection:

19 (A) "Health utility" means a measure of the degree to which having a particular form of disease  
20 or disability or having particular functional limitations negatively impacts the quality of life as  
21 compared to a state of perfect health, expressed as a number between zero and one.

22 (B) "Quality-adjusted life-year" is the product of a health utility multiplied by the extra months  
23 or years of life that a patient might gain as a result of a treatment.

24 (5) To the extent practicable, the board shall access pricing information for prescription drugs  
25 by:

26 (a) Accessing pricing information collected by the department under ORS 646A.689 and 743.025;

27 (b) Accessing data reported to the Oregon Health Authority under ORS 442.373;

28 (c) Entering into a memorandum of understanding with another state to which manufacturers  
29 already report pricing information; and

30 (d) Accessing other publicly available pricing information.

31 (6) The information used to conduct an affordability review may include any document and re-  
32 search related to the introductory price or price increase of a prescription drug, including life cycle  
33 management, net average price in this state, market competition and context, projected revenue and  
34 the estimated value or cost-effectiveness of the prescription drug.

35 (7) The department and the board shall keep strictly confidential any information collected, used  
36 or relied upon for the review conducted under this section if the information is:

37 (a) Information submitted to the department by a manufacturer under ORS 646A.689; and

38 (b) Confidential, proprietary or a trade secret as defined in ORS 192.345.

39 **SECTION 9.** ORS 646A.695 is amended to read:

40 646A.695. (1) The Department of Consumer and Business Services shall adopt by rule, in con-  
41 sultation with the Prescription Drug Affordability Board, annual fees to be paid by manufacturers  
42 [that sell] of prescription drugs **that are sold** in this state. The fees shall be established in amounts  
43 necessary to meet the costs of the department [and the board] in administering ORS 646A.693 to  
44 646A.695. [The fees shall be imposed based on a manufacturer's share of gross revenue from sales of  
45 prescription drugs in this state.]

1 (2) Fees collected under this section shall be deposited in the Prescription Drug Affordability  
2 Account established in ORS 705.146.

3 **SECTION 10.** ORS 743.025 is amended to read:

4 743.025. (1) **As used in this section, “health benefit plan” has the meaning given that term**  
5 **in ORS 743B.005.**

6 [(1)] (2) An insurer shall [*include with any filing under ORS 743.018*] **annually report** the fol-  
7 lowing information **to the Department of Consumer and Business Services, in the form and**  
8 **manner prescribed by the department,** regarding drugs reimbursed by the insurer under [*policies*  
9 *or certificates*] **health benefit plans issued by the insurer** in this state:

10 (a) The 25 most frequently prescribed drugs;

11 (b) The 25 most costly drugs as a portion of total annual spending;

12 (c) The 25 drugs that have caused the greatest increase in total plan spending from one year to  
13 the next; and

14 (d) The impact of the costs of prescription drugs on premium rates.

15 [(2)] (3) The department [*of Consumer and Business Services*] shall conduct a public hearing an-  
16 nually on prescription drug prices, information reported to the department under ORS 646A.689 and  
17 information described in subsection [(1)] (2) of this section.

18 [(3)] (4) The department shall regularly update the interim committees of the Legislative As-  
19 sembly related to health on the information described in subsection [(1)] (2) of this section.

20 [(4)] (5) Subsection [(1)] (2) of this section applies to an insurer that issues [*policies or certificates*  
21 *of health insurance*] **health benefit plans** for sale in this state that include a prescription drug  
22 benefit.

23 **SECTION 11.** ORS 646A.680, 646A.683, 646A.686, 646A.689, 646A.692, 646A.696 and 646A.697  
24 **are added to and made a part of ORS 646A.693 to 646A.695.**

25 **SECTION 12.** This 2023 Act takes effect on the 91st day after the date on which the 2023  
26 regular session of the Eighty-second Legislative Assembly adjourns sine die.  
27