March 10, 2023

Senator Deb Patterson, Chair
Senator Cedric Hayden, Vice-Chair
Senate Committee on Health Care
900 Court Street NE
Salem, OR 97301

Delivered electronically.

Re: Opposition to Senate Bill 565

Chair Patterson, Vice-Chair Hayden, and Members of the Senate Committee on Health Care:

On your request, I am providing my full, planned spoken remarks in written form for the record. As a note, spoken testimony omitted portions of these remarks for purposes of brevity.

> Unfortunately, I'm here to oppose Senate Bill 565. I think we all share broadly in the goal of reducing what Oregonians pay for prescription drugs. That's why PacificSource is a member of the Oregon Coalition for Affordable Prescriptions, who helped bring Senate Bill 404 to this committee. While I believe Senate Bill 565 is a well-intentioned bill, it will not ultimately lead to lower drug costs for Oregonians.
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> This committee is not the first to examine the topic of patient assistance programs, which broadly consists of copay assistance for commercial plans, charitable donations to third-party foundations for Medicare, and free drug assistance. The Congress, through its House Committee on Oversight and Reform, also devoted significant time and attention to patient assistance programs in is 2021 report on drug pricing. I have submitted a copy of the report on OLIS for your reference. We view the congressional report as instructive in how to consider the present bill.
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> First, Senate Bill 565 only applies to Oregonians that enroll in commercial health insurance in the state, as well as those enrolled in Public Employees Benefit Board and Oregon Educators Benefit Board coverage. Manufacturers may not offer coupons for Medicare patients for prescription drug coverage because they would subject themselves to criminal penalties under the federal Anti-Kickback Statute.[1] In other words, the payments are seen as inducing a person to seek a particular drug.
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> Second, manufacturers' program requirements are unclear. According to the findings made by the House Oversight Committee, the programs tend to be launched to coincide with the loss of patent protection to encourage continued adherence to the brand name drug. The congressional report found that the programs do not have outwardly clear eligibility guidelines. Thus, we do not have a sense of how manufacturers select those

[1] 42 U.S.C. § 1320a-7b(b)

members who would be eligible for patient assistance, how long programs reimburse out-of-pocket costs, and how long a person may remain on a program. We do have a sense of how much patient assistance programs cost the manufacturers, however. The congressional report indicated that manufacturers spent less than 1% of the drug's net revenue on patient assistance.

Finally, under the introduced version of the bill, if a member meets certain utilization management, step therapy or exception processes, they may avail themselves of copay assistance. This is an improvement from legislation introduced in 2021 (Senate Bill 560), but we still believe that the provision does not do enough to encourage members to adopt generic equivalents. Step therapy and utilization management practices have changed with reforms the Oregon Legislative Assembly enacted in 2019 (Senate Bill 249) and 2021 (House Bill 2517). Both bills contained reforms that made seeking coverage of prescription drugs and going through the step therapy process more consumer friendly.

We view generic medications as safe and effective and may save members money. If the committee decides to move forward, we suggest adopting the approach taken in California[2] and Massachusetts[3] and limit copay assistance once a generic equivalent is available.

For questions or concerns, please contact me at (541) 284-7736 or richard.blackwell@pacificsource.com.

Sincerely,

/s/

Richard Blackwell
Director, Oregon Government Relations

[2] Cal. Health & Safety Code §§ 132000-132008
[3] Mass. Gen. L. 175H § 3.