

**§2041. Maine Prescription Drug Affordability Board established**

**1. Board established.** The Maine Prescription Drug Affordability Board, as established in section 12004-G, subsection 14-I and referred to in this chapter as "the board," shall carry out the purposes of this chapter. Administrative oversight of the board must be provided by the Office of Affordable Health Care.

[PL 2021, c. 459, §1 (AMD).]

**2. Membership.** The board has 5 members with expertise in health care economics or clinical medicine, who may not be affiliated with or represent the interests of a public payor, as that term is defined in section 2042, and who are appointed as follows:

A. Two members by the President of the Senate. The President of the Senate shall also appoint one alternate board member who will participate in deliberations of the board in the event a member appointed by the President of the Senate elects to be recused as provided in subsection 7, paragraph B; [PL 2021, c. 293, Pt. A, §5 (RPR).]

B. Two members by the Speaker of the House of Representatives. The Speaker of the House of Representatives shall also appoint one alternate board member who will participate in deliberations of the board in the event a member appointed by the Speaker of the House of Representatives elects to be recused as provided in subsection 7, paragraph B; and [PL 2021, c. 293, Pt. A, §5 (RPR).]

C. One member by the Governor. The Governor shall also appoint one alternate board member who will participate in deliberations of the board in the event the member appointed by the Governor elects to be recused as provided in subsection 7, paragraph B. [PL 2021, c. 293, Pt. A, §5 (RPR).]

[PL 2021, c. 293, Pt. A, §5 (RPR).]

**3. Terms.** Members are appointed to 5-year terms. Of the initial appointees, the member appointed by the Governor serves an initial term of 5 years, one member appointed by the President of the Senate and one member appointed by the Speaker of the House of Representatives serve an initial term of 4 years and one member appointed by the President of the Senate and one member appointed by the Speaker of the House of Representatives serve an initial term of 3 years.

[PL 2021, c. 293, Pt. A, §5 (RPR).]

**4. Quorum.** A majority of board members constitutes a quorum.

[PL 2021, c. 293, Pt. A, §5 (RPR).]

**5. Chair.** The Governor shall name the chair.

[PL 2021, c. 293, Pt. A, §5 (RPR).]

**6. Meetings.** Beginning no later than March 1, 2020, the board shall meet in public session at least every 12 weeks to review prescription drug information and to make recommendations pursuant to section 2042. Meetings may be cancelled or postponed at the discretion of the chair.

A. Each public meeting must be announced 2 weeks in advance, and materials for the meeting must be made public at least one week in advance. [PL 2021, c. 293, Pt. A, §5 (RPR).]

B. Each public meeting must provide opportunity for comment from the public in attendance at the meeting, and the board shall provide the opportunity for the public to submit written comments on pending decisions. [PL 2021, c. 293, Pt. A, §5 (RPR).]

C. The board may allow expert testimony at public meetings and any meeting conducted in executive session as permitted by paragraph D. [PL 2021, c. 293, Pt. A, §5 (RPR).]

D. Notwithstanding the requirements of Title 1, section 405, the board may meet in executive session, except that any decision of the board must be made in public. [PL 2021, c. 293, Pt. A, §5 (RPR).]

[PL 2021, c. 293, Pt. A, §5 (RPR).]

**7. Conflicts of interest.** The following provisions govern any conflict of interest for a member of the board, a member of the advisory council established pursuant to subsection 10 or any staff member or contractor of the board.

A. When appointing a member of the board or the advisory council established pursuant to subsection 10, the appointing authority shall consider any conflict of interest disclosed by the prospective member. A member shall elect to be recused from any board activity in the case in which the member or an immediate family member of the member has a conflict of interest. For the purposes of this paragraph, "conflict of interest" means an association, including a financial or personal association, that has the potential to bias or have the appearance of biasing an individual's decisions in matters related to the board or the conduct of the board's activities. [PL 2021, c. 293, Pt. A, §5 (RPR).]

B. A board member or staff or contractor of the board with a conflict of interest shall elect to be recused. For purposes of this paragraph, "conflict of interest" means any instance in which a member of the board or an immediate family member of the member has received or could receive either of the following:

- (1) A direct financial benefit of any amount deriving from the results or findings of a study or determination by or for the board; or
- (2) A financial benefit from individuals or companies that own or manufacture prescription drugs, services or items to be studied by the board that in the aggregate exceeds \$5,000 per year. For purposes of this subparagraph, "financial benefit" includes honoraria, fees, stock or other financial benefit and the current value of the member's or immediate family member's already existing stock holdings, in addition to any direct financial benefit deriving from the results or findings conducted under this section. [PL 2021, c. 293, Pt. A, §5 (RPR).]

C. A conflict of interest must be disclosed in the following manner:

- (1) By the board in the employment of board senior staff;
- (2) By the Governor, President of the Senate or Speaker of the House of Representatives when appointing members to the board and advisory council established pursuant to subsection 10;
- (3) By the board, describing any recusals as part of any final decision relating to a prescription drug; and
- (4) By the 5th day after a conflict is identified or, if a public meeting of the board will occur within that 5-day period, in advance of the public meeting. [PL 2021, c. 293, Pt. A, §5 (RPR).]

D. Conflicts of interest must be publicly posted on the website of the board. The information disclosed must include the type, nature and magnitude of the interests of the individual involved, except to the extent that the individual elects to be recused from participation in any activity with respect to which the potential conflict exists. [PL 2021, c. 293, Pt. A, §5 (RPR).]

E. The board, the advisory council established pursuant to subsection 10, a member of the board or staff or a contractor of the board may not accept gifts, bequests or donations of services or property that suggest a conflict of interest or have the appearance of creating bias in the work of the board or advisory council. [PL 2021, c. 293, Pt. A, §5 (RPR).]

F. A member of the advisory council established pursuant to subsection 10 who accepts a gift, bequest or donation of services or property that suggests a conflict of interest or has the appearance of creating bias in the work of the advisory council shall disclose the gift, bequest or donation publicly. [PL 2021, c. 293, Pt. A, §5 (RPR).]

[PL 2021, c. 293, Pt. A, §5 (RPR).]

**8. Staff.** The Office of Affordable Health Care shall provide staffing services to the board.  
[PL 2021, c. 459, §2 (AMD).]

**9. Compensation.** A member of the board and a member of the advisory council appointed pursuant to subsection 10, paragraph L are entitled to legislative per diem and reimbursement for expenses as provided in section 12004-G, subsection 14-I.  
[PL 2021, c. 293, Pt. A, §5 (RPR).]

**10. Advisory council.** A 12-member advisory council is established to advise the board on establishing annual spending targets pursuant to section 2042, subsection 1 and determining methods for meeting those spending targets pursuant to section 2042, subsection 3. The advisory council consists of:

- A. The Governor or the governor's designee; [PL 2021, c. 293, Pt. A, §5 (RPR).]
- B. The Commissioner of Administrative and Financial Services or the commissioner's designee; [PL 2021, c. 293, Pt. A, §5 (RPR).]
- C. The Commissioner of Corrections or the commissioner's designee; [PL 2021, c. 293, Pt. A, §5 (RPR).]
- D. The Commissioner of Health and Human Services or the commissioner's designee; [PL 2021, c. 293, Pt. A, §5 (RPR).]
- E. The Attorney General or the Attorney General's designee; [PL 2021, c. 293, Pt. A, §5 (RPR).]
- F. The Executive Director of Employee Health and Benefits, within the Department of Administrative and Financial Services, Bureau of Human Resources, or the executive director's designee; [PL 2021, c. 293, Pt. A, §5 (RPR).]
- G. A representative from the Maine State Employees Association, appointed by the Governor, based on a nomination by the association; [PL 2021, c. 293, Pt. A, §5 (RPR).]
- H. A representative from the Maine Education Association, appointed by the Governor, based on a nomination by the association; [PL 2021, c. 293, Pt. A, §5 (RPR).]
- I. A representative from the Maine Municipal Association, appointed by the Governor, based on a nomination by the association; [PL 2021, c. 293, Pt. A, §5 (RPR).]
- J. A representative from the University of Maine System, appointed by the Governor, based on a nomination by the system; [PL 2021, c. 293, Pt. A, §5 (RPR).]
- K. A representative from the Maine Community College System, appointed by the Governor, based on a nomination by the system; and [PL 2021, c. 293, Pt. A, §5 (RPR).]
- L. A representative of consumer interests, appointed by the Governor, who serves a 3-year term.  
[PL 2021, c. 293, Pt. A, §5 (RPR).]  
[PL 2021, c. 293, Pt. A, §5 (RPR).]

**11. Funds and grants.** The board may apply for and receive funds, grants or contracts from public and private sources.  
[PL 2021, c. 293, Pt. A, §5 (RPR).]

**12. Assessment.** The board may recommend that a public payor, as defined in section 2042, subsection 1, pay an annual assessment to support the administrative costs of the board.  
[PL 2021, c. 293, Pt. A, §5 (RPR).]

#### SECTION HISTORY

PL 2019, c. 471, §1 (NEW). PL 2019, c. 472, §1 (NEW). PL 2021, c. 293, Pt. A, §5 (RPR). PL 2021, c. 459, §§1, 2 (AMD).

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