CHAPTER 167

MAINE PRESCRIPTION DRUG AFFORDABILITY BOARD

§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 consists of 6 members with expertise in health policy, health care data, health care economics or clinical medicine, who may not be affiliated with or represent the interests of a pharmaceutical manufacturer or a public payor, as follows:

A. Two members appointed 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 2025, c. 530, §1 (AMD).]

B. Two members appointed 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; [PL 2025, c. 530, §1 (AMD).]

C. One member appointed 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; and [PL 2025, c. 530, §1 (AMD).]

D. The executive director of the Maine Health Data Organization established by Title 22, section 8703, or the executive director's designee, who serves as an ex officio, nonvoting member. [PL 2025, c. 530, §1 (NEW).]
[PL 2025, c. 530, §1 (AMD).]

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. Except for the member under subsection 2, paragraph D, 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 2025, c. 530, §2 (AMD).]

10. Advisory council. A 13-member advisory council is established to advise the board. 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 Service Employees Association, appointed by the Governor, based on a nomination by the association; [PL 2025, c. 530, §3 (AMD).]

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; [PL 2025, c. 530, §3 (AMD).]

L. A representative of consumer interests, appointed by the Governor, who serves a 3-year term; and [PL 2025, c. 530, §3 (AMD).]

M. A representative of health insurance carriers, appointed by the Governor, who serves a 3-year term. [PL 2025, c. 530, §3 (NEW).]

[PL 2025, c. 530, §3 (AMD).]

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.
[PL 2025, c. 530, §4 (RP).]

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). PL 2025, c. 530, §§1-4 (AMD).

§2042. Powers and duties of the board

The board has the following powers and duties. [PL 2025, c. 530, §5 (NEW).]

1. Prescription drug spending targets.

[PL 2025, c. 530, §5 (RP).]

1-A. Strategies to reduce costs of prescription drugs. The board shall:

A. Review prescription drug spending and utilization data to identify causes of high spending or rising spending affecting public payors and private payors and impacting consumers; [PL 2025, c. 530, §5 (NEW).]

B. Solicit public input to identify cost-related barriers to accessing prescription drugs; and [PL 2025, c. 530, §5 (NEW).]

C. Assess strategies to reduce the cost of prescription drugs and reduce the rate of growth in prescription drug spending and to reduce cost barriers for consumers. The review of strategies must include consideration of the strategies' likely impact on consumers and overall health care costs and the feasibility of implementing such strategies. At a minimum, the board shall assess the following strategies:

(1) Empowering the board to assess the affordability of drugs and to establish upper payment limits;

(2) Implementing reference-based pricing, including reviewing potential savings for the state employee group health plan under Title 5, section 285 by implementing reference-based pricing for the first 10 drugs negotiated under the Medicare drug price negotiation program established in United States Public Law 117-169 (August 16, 2022);

(3) Recommending annual spending targets for prescription drugs for public payors and implementing strategies for the purchase of prescription drugs by public payors in order to meet those annual spending targets, including group purchasing and formulary alignment. For the purposes of this subsection, the term "public payor" means any division of state, county or municipal government that administers a health plan for employees of that division of state, county or municipal government or an association of state, county or municipal employers that administers a health plan for its employees, except for the MaineCare program;

(4) Recommending annual spending targets for prescription drugs that could be applied to one or more segments of the state-regulated commercial insurance market and implementing strategies to meet those annual spending targets;

(5) Implementing transparency requirements and regulation of supply chain entities, including, but not limited to, pharmacy benefits managers, including regarding the role of discounts and rebates in prescription drug costs;

(6) Implementing strategies to reduce out-of-pocket costs for prescription drugs through the regulation of insurance and the rate review process of the Department of Professional and Financial Regulation, Bureau of Insurance;

(7) Developing opportunities for engagement with providers and other health care professionals to disseminate information about prescription drug costs and pricing; and

(8) Aligning the payment for prescription drugs with actual drug acquisition costs. [PL 2025, c. 530, §5 (NEW).]

[PL 2025, c. 530, §5 (NEW).]

1-B. Other states' experiences. To accomplish the duties under subsection 1-A, the board shall consider and review the experiences of other states, including, but not limited to, the role of prescription drug affordability boards established in other states that are authorized to assess affordability of prescription drugs and to establish upper payment limits or reference-based pricing requirements and their regulation of pharmacy benefits managers.

[PL 2025, c. 530, §5 (NEW).]

2. Prescription drug spending data. The board may consider the following prescription drug spending data to accomplish its duties under this section:

A. [PL 2025, c. 530, §5 (RP).]

B. Data compiled by the Maine Health Data Organization under Title 22, chapter 1683; and [PL 2025, c. 530, §5 (AMD).]

C. Publicly available data that is available for purchase or for free. [PL 2025, c. 530, §5 (NEW).]

If there is additional data required by the board and its staff that is not already available pursuant to paragraphs B and C, the board may recommend that the Maine Health Data Organization adopt rules to collect additional prescription drug spending data, including data relating to the prescription drugs common to each formulary. Prescription drug spending data provided to the board and its staff under this subsection is confidential to the same extent it is confidential while in the custody of the entity that provided the data to the board.

[PL 2025, c. 530, §5 (AMD).]

3. Recommendations.

[PL 2025, c. 530, §5 (RP).]

4. Report. The board shall report any recommendations regarding strategies to reduce the cost of prescription drugs, other states' experiences and prescription drug spending data to the joint standing committee of the Legislature having jurisdiction over health coverage and insurance matters no later than January 30th annually. The joint standing committee may report out legislation based upon the report.

[PL 2025, c. 530, §5 (AMD).]

5. Rulemaking. The board may adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined by chapter 375, subchapter 2-A.

[PL 2025, c. 530, §5 (NEW).]

SECTION HISTORY

PL 2019, c. 471, §1 (NEW). PL 2019, c. 472, §1 (NEW). PL 2021, c. 293, Pt. A, §5 (RPR). PL 2025, c. 530, §5 (AMD).

§2043. Implementation

(REPEALED)

SECTION HISTORY

PL 2019, c. 472, §1 (NEW). PL 2021, c. 293, Pt. A, §5 (RP).

§2044. Annual reporting

(REPEALED)

SECTION HISTORY

PL 2019, c. 472, §1 (NEW). PL 2021, c. 293, Pt. A, §5 (RP).

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