

LEGISLATIVE COMMITTEE MINUTES

SB450

Bill as Introduced

SB 450 - AS INTRODUCED

2022 SESSION

22-3071
05/11

SENATE BILL **450**

AN ACT relative to the prescription drug affordability board.

SPONSORS: Sen. Sherman, Dist 24; Sen. Rosenwald, Dist 13; Sen. Watters, Dist 4; Sen. Carson, Dist 14; Sen. Gannon, Dist 23; Sen. Perkins Kwoka, Dist 21; Sen. Prentiss, Dist 5; Rep. Merchant, Sull. 4; Rep. Marsh, Carr. 8; Rep. Murphy, Graf. 12

COMMITTEE: Health and Human Services

ANALYSIS

This bill expands the ability of alternates to sit on the New Hampshire prescription drug affordability board, revises the board's conflict of interest requirements and certain fee assessments.

Explanation: Matter added to current law appears in *bold italics*.
Matter removed from current law appears ~~[in brackets and struckthrough]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to the prescription drug affordability board.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Hampshire Prescription Drug Affordability Board; Alternates. Amend RSA 126-BB:2, I
2 to read as follows:

3 I. The board shall consist of 5 members with expertise in health care economics or clinical
4 medicine, who shall not be, or be directly related to, anyone affiliated with, employed by, or
5 representing the interests of a public payor, pharmaceutical or pharmacy company, pharmacy
6 benefits management company, or health insurance provider and who have completed a conflict of
7 interest statement. They shall be appointed as follows:

8 (a) Two members by the president of the senate. The president of the senate shall also
9 appoint one alternate board member who will participate in deliberations of the board in the event a
10 member appointed by the president of the senate elects to be recused as provided in RSA 126-BB:3,
11 *or pursuant to subparagraph (d)*.

12 (b) Two members by the speaker of the house of representatives. The speaker of the
13 house of representatives shall also appoint one alternate board member who will participate in
14 deliberations of the board in the event a member appointed by the speaker of the house of
15 representatives elects to be recused as provided in RSA 126-BB:3, *or pursuant to subparagraph*
16 *(d)*.

17 (c) One member by the governor. The governor shall also appoint one alternate board
18 member who shall participate in deliberations of the board in the event the member appointed by
19 the governor elects to be recused as provided in RSA 126-BB:3, *or pursuant to subparagraph (d)*.

20 (d) *Any alternate may serve in the place of any absent member at the discretion*
21 *of the chair for the purpose of meeting the quorum in RSA 126-BB:2, III.*

22 2 New Hampshire Prescription Drug Affordability Board; Conflicts of Interest. Amend RSA
23 126-BB:3,II(e) and (f) to read as follows:

24 (e) The board, the advisory council, a member of the board or staff, or [~~a contractor of the~~
25 ~~board may not accept gifts, bequests, or donations of services or property that suggest a conflict of~~
26 ~~interest or have the appearance of creating bias in the work of the board or advisory council]~~ *any*
27 *individual associated with the board whom the board deems appropriate by a majority vote*
28 *of the board shall comply with the provisions of RSA 15-B.*

29 (f) A member of the advisory council [~~who accepts a gift, bequest, or donation of services~~
30 ~~or property that suggests a conflict of interest or has the appearance of creating bias in the work of~~

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1 ~~the advisory council shall disclose the gift, bequest, or donation publicly]~~ **shall comply with the**
2 **provisions of RSA 15-B.**

3 3 Funding; Assessment of Fees. Amend RSA 126-BB:8, I(e) to read as follows:

4 (e) Annual assessments of not less than \$500 assessed by the board against prescription
5 drug manufacturers, wholesale drug distributors, and pharmacy benefits managers, **including**
6 **those that process and pay claims on the basis of claims processed or paid for each plan**
7 **sponsor.**

8 4 Repeal. RSA 126-BB:8, I(c)(4), relative to annual assessment of pharmacy benefits managers,
9 is repealed.

10 5 Effective Date. This act shall take effect 60 days after its passage.

SB 450 - AS AMENDED BY THE SENATE

03/31/2022 1202s
03/31/2022 1254s

2022 SESSION

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SENATE BILL

450

AN ACT

relative to the prescription drug affordability board.

SPONSORS:

Sen. Sherman, Dist 24; Sen. Rosenwald, Dist 13; Sen. Watters, Dist 4; Sen. Carson, Dist 14; Sen. Gannon, Dist 23; Sen. Perkins Kwoka, Dist 21; Sen. Prentiss, Dist 5; Rep. Merchant, Sull. 4; Rep. Marsh, Carr. 8; Rep. Murphy, Graf. 12

COMMITTEE:

Health and Human Services

AMENDED ANALYSIS

This bill clarifies the definition of manufacturer and pricing unit for purposes of the prescription drug affordability board; expands the ability of alternates to sit on the prescription drug affordability board; changes the executive director position from a classified to unclassified position; clarifies the board's authority to assess fees; establishes a dedicated fund to support the board; and establishes a criminal penalty for violation of confidentiality requirements.

Explanation:

Matter added to current law appears in ***bold italics***.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to the prescription drug affordability board.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Hampshire Prescription Drug Affordability Board; Definition of Manufacturer and
2 Pricing Unit. Amend RSA 126-BB:1, IV and V to read as follows:

3 IV. "Manufacturer" means a manufacturer of prescription drugs that are distributed in the
4 state. A manufacturer excludes a packager, repackager, labeler, and relabeler *unless the*
5 *packager, repackager, labeler, or relabeler sets the price or controls the price of a*
6 *prescription drug.*

7 V. "Pricing unit" means the smallest [~~dispensable amount of a prescription drug that could~~
8 ~~be dispensed~~] *available package that can be used to dispense the smallest amount of a*
9 *prescription drug.*

10 2 New Hampshire Prescription Drug Affordability Board; Alternates. Amend RSA 126-BB:2, I
11 to read as follows:

12 I. The board shall consist of 5 members with expertise in health care economics or clinical
13 medicine, who shall not be, or be directly related to, anyone affiliated with, employed by, or
14 representing the interests of a public payor, pharmaceutical or pharmacy company, pharmacy
15 benefits management company, or health insurance provider and who have completed a conflict of
16 interest statement. *A member may be a legislator but is not required to be a legislator.* They
17 shall be appointed as follows:

18 (a) Two members by the president of the senate. The president of the senate shall also
19 appoint [~~one~~] 2 alternate board [~~member~~] *members* who will participate in deliberations of the board
20 in the event a member appointed by the president of the senate elects to be recused as provided in
21 RSA 126-BB:3 *or is absent.*

22 (b) Two members by the speaker of the house of representatives. The speaker of the
23 house of representatives shall also appoint [~~one~~] 2 alternate board [~~member~~] *members* who will
24 participate in deliberations of the board in the event a member appointed by the speaker of the
25 house of representatives elects to be recused as provided in RSA 126-BB:3 *or is absent.*

26 (c) One member by the governor. The governor shall also appoint [~~one~~] 2 alternate
27 board [~~member~~] *members* who shall participate in deliberations of the board in the event the
28 member appointed by the governor elects to be recused as provided in RSA 126-BB:3 *or is absent.*

29 3 New Hampshire Prescription Drug Affordability Board; Executive Director. Amend RSA 126-
30 BB:2, VI to read as follows:

1 VI. The board shall be administratively attached to the department of health and human
 2 services. The board may employ *staff, including but not limited to*, an executive director who
 3 shall be [~~a-classified~~] *an unclassified* employee. *The executive director shall be appointed by*
 4 *and serve at the pleasure of the board.*

5 4 Salary; Executive Director of the New Hampshire Prescription Drug Affordability Board. The
 6 salary for the executive director of the New Hampshire prescription drug affordability board shall be
 7 determined after assessment and review of the appropriate temporary letter grade allocation in RSA
 8 94:1-a, I(b) for the position which shall be conducted pursuant to RSA 94:1-d and RSA 14:14-c.

9 5 New Subparagraph; New Hampshire Prescription Drug Affordability Board; Conflicts of
 10 Interest. Amend RSA 126-BB:3, II by inserting after subparagraph (f) the following new
 11 subparagraph:

12 (g) Notwithstanding the prohibition in RSA 21-G:25, I, any person whose employer
 13 cannot and will not directly benefit from action taken or not taken by the board may be appointed to,
 14 and serve as a member of, the board.

15 6 Funding; Assessment of Fees. Amend RSA 126-BB:8, I(e) to read as follows:

16 (e) Annual assessments of not less than \$500 assessed by the board against prescription
 17 drug manufacturers, wholesale drug distributors, and pharmacy benefits managers, *including*
 18 *those that process and pay claims on the basis of claims processed or paid for each plan*
 19 *sponsor.*

20 7 New Hampshire Prescription Drug Affordability Board; Assessments. Amend RSA 126-BB:8,
 21 II to read as follows:

22 II. The aggregate level of annual assessments under subparagraphs (c) and (e) shall be an
 23 amount sufficient to meet the board's expenditures authorized; *provided that such amount shall*
 24 *not exceed 125 percent of the board's annual operating costs.* The board may waive
 25 assessments otherwise due under subparagraphs (c) and (e) when a waiver is determined to be in the
 26 interests of the board and the parties to be assessed.

27 *II-a. Any entity assessed a fee or other assessment under this section may appeal*
 28 *such action in accordance with RSA 541.*

29 8 New Hampshire Prescription Drug Affordability Board; Rulemaking; Appeal. Amend RSA
 30 126-BB:6, IV to read as follows:

31 IV. *The appeals process for assessments issued by the board under RSA 126-BB:8.*

32 V. Any other matter required to implement this chapter.

33 9 New Paragraph; New Hampshire Prescription Drug Affordability Board; Dedicated Fund.
 34 Amend RSA 126-BB:8 by inserting after paragraph II the following new paragraph:

35 III. There is established a nonlapsing fund to be known as the New Hampshire prescription
 36 drug affordability board administration fund, which shall be kept distinct and separate from all
 37 other funds. The fund shall be continually appropriated to and administered by the board. All fees

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1 and assessments collected under this section shall be deposited in the fund. The board shall use the
2 fund, consistent with the provisions of this chapter, to receive funds and to reimburse costs incurred
3 by the board. The fund may be used to pay administrative, technical, legal support, or other costs
4 incurred by the board under this chapter. The state treasurer may invest moneys in the fund as
5 provided by law, and all interest received on such investment shall be credited to the fund.

6 10 New Section; Criminal Penalty. Amend RSA 126-BB by inserting after section 9 the
7 following new section:

8 126-BB:9-a Criminal Penalty. Any person who knowingly uses confidential information
9 obtained pursuant to this chapter or knowingly discloses confidential information obtained pursuant
10 to this chapter to any person not authorized to review such information shall be guilty of a
11 misdemeanor.

12 11 New Subparagraph; Dedicated Fund. Amend RSA 6:12, I(b) by inserting after subparagraph
13 (382) the following new subparagraph:

14 (383) Moneys deposited in the New Hampshire prescription drug affordability board
15 administration fund, established in RSA 126-BB:8, III.

16 12 Repeal. RSA 126-BB:8, I(c)(4), relative to annual assessment of pharmacy benefits
17 managers, is repealed.

18 13 Effective Date. This act shall take effect July 1, 2022.

CHAPTER 244
SB 450 - FINAL VERSION

03/31/2022 1202s
03/31/2022 1254s

2022 SESSION

22-3071
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SENATE BILL **450**

AN ACT relative to the prescription drug affordability board.

SPONSORS: Sen. Sherman, Dist 24; Sen. Rosenwald, Dist 13; Sen. Watters, Dist 4; Sen. Carson, Dist 14; Sen. Gannon, Dist 23; Sen. Perkins Kwoka, Dist 21; Sen. Prentiss, Dist 5; Rep. Merchant, Sull. 4; Rep. Marsh, Carr. 8; Rep. Murphy, Graf. 12

COMMITTEE: Health and Human Services

AMENDED ANALYSIS

This bill clarifies the definition of manufacturer and pricing unit for purposes of the prescription drug affordability board; expands the ability of alternates to sit on the prescription drug affordability board; changes the executive director position from a classified to unclassified position; clarifies the board's authority to assess fees; establishes a dedicated fund to support the board; and establishes a criminal penalty for violation of confidentiality requirements.

Explanation: Matter added to current law appears in *bold italics*.
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CHAPTER 244
SB 450 - FINAL VERSION

03/31/2022 1202s
03/31/2022 1254s

22-3071
05/11

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to the prescription drug affordability board.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 244:1 New Hampshire Prescription Drug Affordability Board; Definition of Manufacturer and
2 Pricing Unit. Amend RSA 126-BB:1, IV and V to read as follows:

3 IV. "Manufacturer" means a manufacturer of prescription drugs that are distributed in the
4 state. A manufacturer excludes a packager, repackager, labeler, and relabeler *unless the*
5 *packager, repackager, labeler, or relabeler sets the price or controls the price of a*
6 *prescription drug.*

7 V. "Pricing unit" means the smallest [~~dispensable amount of a prescription drug that could~~
8 ~~be dispensed~~] *available package that can be used to dispense the smallest amount of a*
9 *prescription drug.*

10 244:2 New Hampshire Prescription Drug Affordability Board; Alternates. Amend RSA 126-
11 BB:2, I to read as follows:

12 I. The board shall consist of 5 members with expertise in health care economics or clinical
13 medicine, who shall not be, or be directly related to, anyone affiliated with, employed by, or
14 representing the interests of a public payor, pharmaceutical or pharmacy company, pharmacy
15 benefits management company, or health insurance provider and who have completed a conflict of
16 interest statement. *A member may be a legislator but is not required to be a legislator.* They
17 shall be appointed as follows:

18 (a) Two members by the president of the senate. The president of the senate shall also
19 appoint [~~one~~] **2** alternate board [~~member~~] *members* who will participate in deliberations of the board
20 in the event a member appointed by the president of the senate elects to be recused as provided in
21 RSA 126-BB:3 *or is absent.*

22 (b) Two members by the speaker of the house of representatives. The speaker of the
23 house of representatives shall also appoint [~~one~~] **2** alternate board [~~member~~] *members* who will
24 participate in deliberations of the board in the event a member appointed by the speaker of the
25 house of representatives elects to be recused as provided in RSA 126-BB:3 *or is absent.*

26 (c) One member by the governor. The governor shall also appoint [~~one~~] **2** alternate
27 board [~~member~~] *members* who shall participate in deliberations of the board in the event the
28 member appointed by the governor elects to be recused as provided in RSA 126-BB:3 *or is absent.*

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SB 450 - FINAL VERSION
- Page 2 -

1 244:3 New Hampshire Prescription Drug Affordability Board; Executive Director. Amend RSA
2 126-BB:2, VI to read as follows:

3 VI. The board shall be administratively attached to the department of health and human
4 services. The board may employ *staff, including but not limited to*, an executive director who
5 shall be [~~a-classified~~] *an unclassified* employee. *The executive director shall be appointed by*
6 *and serve at the pleasure of the board.*

7 244:4 Salary; Executive Director of the New Hampshire Prescription Drug Affordability Board.
8 The salary for the executive director of the New Hampshire prescription drug affordability board
9 shall be determined after assessment and review of the appropriate temporary letter grade
10 allocation in RSA 94:1-a, I(b) for the position which shall be conducted pursuant to RSA 94:1-d and
11 RSA 14:14-c.

12 244:5 New Subparagraph; New Hampshire Prescription Drug Affordability Board; Conflicts of
13 Interest. Amend RSA 126-BB:3, II by inserting after subparagraph (f) the following new
14 subparagraph:

15 (g) Notwithstanding the prohibition in RSA 21-G:25, I, any person whose employer
16 cannot and will not directly benefit from action taken or not taken by the board may be appointed to,
17 and serve as a member of, the board.

18 244:6 Funding; Assessment of Fees. Amend RSA 126-BB:8, I(e) to read as follows:

19 (e) Annual assessments of not less than \$500 assessed by the board against prescription
20 drug manufacturers, wholesale drug distributors, and pharmacy benefits managers, *including*
21 *those that process and pay claims on the basis of claims processed or paid for each plan*
22 *sponsor.*

23 244:7 New Hampshire Prescription Drug Affordability Board; Assessments. Amend RSA 126-
24 BB:8, II to read as follows:

25 II. The aggregate level of annual assessments under subparagraphs (c) and (e) shall be an
26 amount sufficient to meet the board's expenditures authorized; *provided that such amount shall*
27 *not exceed 125 percent of the board's annual operating costs.* The board may waive
28 assessments otherwise due under subparagraphs (c) and (e) when a waiver is determined to be in the
29 interests of the board and the parties to be assessed.

30 *II-a. Any entity assessed a fee or other assessment under this section may appeal*
31 *such action in accordance with RSA 541.*

32 244:8 New Hampshire Prescription Drug Affordability Board; Rulemaking; Appeal. Amend RSA
33 126-BB:6, IV to read as follows:

34 IV. *The appeals process for assessments issued by the board under RSA 126-BB:8.*

35 V. Any other matter required to implement this chapter.

36 244:9 New Paragraph; New Hampshire Prescription Drug Affordability Board; Dedicated Fund.
37 Amend RSA 126-BB:8 by inserting after paragraph II the following new paragraph:

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SB 450 - FINAL VERSION
- Page 3 -

1 III. There is established a nonlapsing fund to be known as the New Hampshire prescription
2 drug affordability board administration fund, which shall be kept distinct and separate from all
3 other funds. The fund shall be continually appropriated to and administered by the board. All fees
4 and assessments collected under this section shall be deposited in the fund. The board shall use the
5 fund, consistent with the provisions of this chapter, to receive funds and to reimburse costs incurred
6 by the board. The fund may be used to pay administrative, technical, legal support, or other costs
7 incurred by the board under this chapter. The state treasurer may invest moneys in the fund as
8 provided by law, and all interest received on such investment shall be credited to the fund.

9 244:10 New Section; Criminal Penalty. Amend RSA 126-BB by inserting after section 9 the
10 following new section:

11 126-BB:9-a Criminal Penalty. Any person who knowingly uses confidential information
12 obtained pursuant to this chapter or knowingly discloses confidential information obtained pursuant
13 to this chapter to any person not authorized to review such information shall be guilty of a
14 misdemeanor.

15 244:11 New Subparagraph; Dedicated Fund. Amend RSA 6:12, I(b) by inserting after
16 subparagraph (382) the following new subparagraph:

17 (383) Moneys deposited in the New Hampshire prescription drug affordability board
18 administration fund, established in RSA 126-BB:8, III.

19 244:12 Repeal. RSA 126-BB:8, I(c)(4), relative to annual assessment of pharmacy benefits
20 managers, is repealed.

 244:13 Effective Date. This act shall take effect July 1, 2022.

Approved: June 17, 2022
Effective Date: July 01, 2022

Amendments

Amendment to SB 450

1 Amend the bill by replacing section 1 with the following:

2

3 1 Prescription Drug Affordability Board; Membership. Amend RSA 126-BB:2, I to read as
4 follows:

5 I. The board shall consist of 5 members with expertise in health care economics or clinical
6 medicine. [~~who shall not be, or be directly related to, anyone affiliated with, employed by, or~~
7 ~~representing the interests of a public payor, pharmaceutical or pharmacy company, pharmacy~~
8 ~~benefits management company, or health insurance provider and who have completed a conflict of~~
9 ~~interest statement. They]~~

10 *I-a. No person shall serve as a board member if the person, the person's employer, or*
11 *the person's spouse, domestic partner, parent, or child is a market participant as defined*
12 *in RSA 126-BB:1.*

13 *I-b. No person shall serve as a board member if the person was a market*
14 *participant for a period of 2 years prior to his or her appointment.*

15 *I-c. The restrictions on board member eligibility in paragraphs I-a and I-b shall not*
16 *apply to members of the general court.*

17 *I-d. Board members shall be appointed as follows:*

18 (a) Two members by the president of the senate. The president of the senate shall also
19 appoint one alternate board member who will participate in deliberations of the board in the event a
20 member appointed by the president of the senate elects to be recused as provided in RSA 126-BB:3,
21 *or pursuant to subparagraph (d).*

22 (b) ~~Two members by the speaker of the house of representatives. The speaker of the~~
23 ~~house of representatives shall also appoint one alternate board member who will participate in~~
24 ~~deliberations of the board in the event a member appointed by the speaker of the house of~~
25 ~~representatives elects to be recused as provided in RSA 126-BB:3, *or pursuant to subparagraph*~~
26 ~~*(d).*~~

27 (c) One member by the governor. The governor shall also appoint one alternate board
28 member who shall participate in deliberations of the board in the event the member appointed by
29 the governor elects to be recused as provided in RSA 126-BB:3, *or pursuant to subparagraph (d).*

30 (d) *Any alternate may serve in the place of any absent member at the discretion*
31 *of the chair for the purpose of meeting the quorum in RSA 126-BB:2, III.*

32

Amendment to SB 450

- Page 2 -

1 Amend the bill by inserting after section 3 the following and renumbering the original sections 4-5 to
2 read as 6-7, respectively:

3

4 4 New Paragraph; Definition of Market Participant Added. Amend RSA 126-BB:1 by inserting
5 after paragraph IV the following new paragraph:

6 IV-a. "Market participant" means any board member, owner, or substantial shareholder of a
7 manufacturer, distributor, health care provider, hospital, pharmacy benefits manager, insurance
8 carrier, pharmaceutical supply chain participant, self-insured employer, or other person whose
9 profession or employment primarily involves or supports the practice of pharmacy as defined in RSA
10 318. A person is a substantial shareholder of a market participant if the person owns greater than
11 one percent of all shares of stock of a corporation, partnership, or other business entity.

12 5 New Section; Criminal Penalty. Amend RSA 126-BB by inserting after section 9 the following
13 new section:

14 126-BB:9-a Criminal Penalty. Any person who knowingly discloses or uses confidential
15 information obtained pursuant to this chapter to any person not authorized to review such
16 information shall be guilty of a misdemeanor.

UNAPPROVED

2022-1116s

AMENDED ANALYSIS

This bill expands the ability of alternates to sit on the New Hampshire prescription drug affordability board, revises the board's conflict of interest requirements and certain fee assessments, and establishes a criminal penalty for the violation of confidentiality requirements.

UNAPPROVED

Sen. Bradley, Dist 3
Sen. Sherman, Dist 24
March 22, 2022
2022-1185s
05/10

Amendment to SB 450

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 New Hampshire Prescription Drug Affordability Board; Definition of Manufacturer. Amend
4 RSA 126-BB:1, IV to read as follows:

5 IV. "Manufacturer" means a manufacturer of prescription drugs that are distributed in the
6 state. A manufacturer excludes a packager, repackager, labeler, and relabeler *unless the*
7 *packager, repackager, labeler, or relabeler sets the price or controls the price of a*
8 *prescription drug.*

9 2 New Hampshire Prescription Drug Affordability Board; Alternates. Amend RSA 126-BB:2, I
10 to read as follows:

11 I. The board shall consist of 5 members with expertise in health care economics or clinical
12 medicine, who shall not be, or be directly related to, anyone affiliated with, employed by, or
13 representing the interests of a public payor, pharmaceutical or pharmacy company, pharmacy
14 benefits management company, or health insurance provider and who have completed a conflict of
15 interest statement. *A member may be a legislator but is not required to be a legislator.* They
16 shall be appointed as follows:

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18 appoint ~~[one]~~ 2 alternate board ~~[member]~~ *members* who will participate in deliberations of the board
19 in the event a member appointed by the president of the senate elects to be recused as provided in
20 RSA 126-BB:3 *or is absent.*

21 (b) Two members by the speaker of the house of representatives. The speaker of the
22 house of representatives shall also appoint ~~[one]~~ 2 alternate board ~~[member]~~ *members* who will
23 participate in deliberations of the board in the event a member appointed by the speaker of the
24 house of representatives elects to be recused as provided in RSA 126-BB:3 *or is absent.*

25 (c) One member by the governor. The governor shall also appoint ~~[one]~~ 2 alternate
26 board ~~[member]~~ *members* who shall participate in deliberations of the board in the event the
27 member appointed by the governor elects to be recused as provided in RSA 126-BB:3 *or is absent.*

28 3 New Hampshire Prescription Drug Affordability Board; Executive Director. Amend RSA 126-
29 BB:2, VI to read as follows:

30 VI. The board shall be administratively attached to the department of health and human
31 services. The board may employ *staff, including but not limited to*, an executive director who

1 shall be [~~a-classified~~] *an unclassified* employee. *The executive director shall be appointed by*
2 *and serve at the pleasure of the board.*

3 4 Salary; Executive Director of the New Hampshire Prescription Drug Affordability Board. The
4 salary for the executive director of the New Hampshire prescription drug affordability board shall be
5 determined after assessment and review of the appropriate temporary letter grade allocation in RSA
6 94:1-a, I(b) for the position which shall be conducted pursuant to RSA 94:1-d and RSA 14:14-c.

7 5 New Subparagraph; New Hampshire Prescription Drug Affordability Board; Conflicts of
8 Interest. Amend RSA 126-BB:3,II by inserting after subparagraph (f) the following new
9 subparagraph:

10 (g) Notwithstanding the prohibition in RSA 21-G:25, I, any person whose employer
11 cannot and will not directly benefit from action taken or not taken by the board may be appointed to,
12 and serve as a member of, the board.

13 6 Funding; Assessment of Fees. Amend RSA 126-BB:8, I(e) to read as follows:

14 (e) Annual assessments of not less than \$500 assessed by the board against prescription
15 drug manufacturers, wholesale drug distributors, and pharmacy benefits managers, *including*
16 *those that process and pay claims on the basis of claims processed or paid for each plan*
17 *sponsor.*

18 7 New Hampshire Prescription Drug Affordability Board; Assessments. Amend RSA 126-BB:8,
19 II to read as follows:

20 II. The aggregate level of annual assessments under subparagraphs (c) and (e) shall be an
21 amount sufficient to meet the board's expenditures authorized; *provided that such amount shall*
22 *not exceed 15 percent of the board's annual operating costs.* The board may waive
23 assessments otherwise due under subparagraphs (c) and (e) when a waiver is determined to be in the
24 interests of the board and the parties to be assessed.

25 *II-a. Any entity assessed a fee or other assessment under this section may appeal*
26 *such action in accordance with RSA 541.*

27 8 New Hampshire Prescription Drug Affordability Board; Rulemaking; Appeal. Amend RSA
28 126-BB:6, IV to read as follows:

29 IV. *The appeals process for assessments issued by the board under RSA 126-BB:8.*

30 V. Any other matter required to implement this chapter.

31 9 New Paragraph; New Hampshire Prescription Drug Affordability Board; Dedicated Fund.
32 Amend RSA 126-BB:8 by inserting after paragraph II the following new paragraph:

33 III. There is established a nonlapsing fund to be known as the New Hampshire prescription
34 drug affordability board administration fund, which shall be kept distinct and separate from all
35 other funds. The fund shall be continually appropriated to and administered by the board. All fees
36 and assessments collected under this section shall be deposited in the fund. The board shall use the
37 fund, consistent with the provisions of this chapter, to receive funds and to reimburse costs incurred

Amendment to SB 450

- Page 3 -

1 by the board. The fund may be used to pay administrative, technical, legal support, or other costs
2 incurred by the board under this chapter. The state treasurer may invest moneys in the fund as
3 provided by law, and all interest received on such investment shall be credited to the fund.

4 10 New Section; Criminal Penalty. Amend RSA 126-BB by inserting after section 9 the
5 following new section:

6 126-BB:9-a Criminal Penalty. Any person who knowingly uses confidential information
7 obtained pursuant to this chapter or knowingly discloses confidential information obtained pursuant
8 to this chapter to any person not authorized to review such information shall be guilty of a
9 misdemeanor.

10 11 New Subparagraph; Dedicated Fund. Amend RSA 6:12, I(b) by inserting after subparagraph
11 (382) the following new subparagraph:

12 (383) Moneys deposited in the New Hampshire prescription drug affordability board
13 administration fund, established in RSA 126-BB:8, III.

14 12 Repeal. RSA 126-BB:8, I(c)(4), relative to annual assessment of pharmacy benefits
15 managers, is repealed.

16 13 Effective Date. This act shall take effect July 1, 2022.

UNAPPROVED

2022-1185s

AMENDED ANALYSIS

This bill clarifies the definition of manufacturer for purposes of the prescription drug affordability board; expands the ability of alternates to sit on the prescription drug affordability board; changes the executive director position from a classified to unclassified position; clarifies the board's authority to assess fees; establishes a dedicated fund to support the board; and establishes a criminal penalty for violation of confidentiality requirements.

UNAPPROVED

Amendment to SB 450

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 New Hampshire Prescription Drug Affordability Board; Definition of Manufacturer. Amend
4 RSA 126-BB:1, IV to read as follows:

5 IV. "Manufacturer" means a manufacturer of prescription drugs that are distributed in the
6 state. A manufacturer excludes a packager, repackager, labeler, and relabeler *unless the*
7 *packager, repackager, labeler, or relabeler sets the price or controls the price of a*
8 *prescription drug.*

9 2 New Hampshire Prescription Drug Affordability Board; Alternates. Amend RSA 126-BB:2, I
10 to read as follows:

11 I. The board shall consist of 5 members with expertise in health care economics or clinical
12 medicine, who shall not be, or be directly related to, anyone affiliated with, employed by, or
13 representing the interests of a public payor, pharmaceutical or pharmacy company, pharmacy
14 benefits management company, or health insurance provider and who have completed a conflict of
15 interest statement. *A member may be a legislator but is not required to be a legislator.* They
16 shall be appointed as follows:

17 (a) Two members by the president of the senate. The president of the senate shall also
18 appoint ~~one~~ 2 alternate board ~~member~~ *members* who will participate in deliberations of the board
19 in the event a member appointed by the president of the senate elects to be recused as provided in
20 RSA 126-BB:3 *or is absent.*

21 (b) Two members by the speaker of the house of representatives. The speaker of the
22 house of representatives shall also appoint ~~one~~ 2 alternate board ~~member~~ *members* who will
23 participate in deliberations of the board in the event a member appointed by the speaker of the
24 house of representatives elects to be recused as provided in RSA 126-BB:3 *or is absent.*

25 (c) One member by the governor. The governor shall also appoint ~~one~~ 2 alternate
26 board ~~member~~ *members* who shall participate in deliberations of the board in the event the
27 member appointed by the governor elects to be recused as provided in RSA 126-BB:3 *or is absent.*

28 3 New Hampshire Prescription Drug Affordability Board; Executive Director. Amend RSA 126-
29 BB:2, VI to read as follows:

30 VI. The board shall be administratively attached to the department of health and human
31 services. The board may employ *staff, including but not limited to*, an executive director who

Amendment to SB 450

- Page 2 -

1 shall be [~~a-classified~~] ***an unclassified*** employee. ***The executive director shall be appointed by***
2 ***and serve at the pleasure of the board.***

3 4 Salary; Executive Director of the New Hampshire Prescription Drug Affordability Board. The
4 salary for the executive director of the New Hampshire prescription drug affordability board shall be
5 determined after assessment and review of the appropriate temporary letter grade allocation in RSA
6 94:1-a, I(b) for the position which shall be conducted pursuant to RSA 94:1-d and RSA 14:14-c.

7 5 New Subparagraph; New Hampshire Prescription Drug Affordability Board; Conflicts of
8 Interest. Amend RSA 126-BB:3, II by inserting after subparagraph (f) the following new
9 subparagraph:

10 (g) Notwithstanding the prohibition in RSA 21-G:25, I, any person whose employer
11 cannot and will not directly benefit from action taken or not taken by the board may be appointed to,
12 and serve as a member of, the board.

13 6 Funding; Assessment of Fees. Amend RSA 126-BB:8, I(e) to read as follows:

14 (e) Annual assessments of not less than \$500 assessed by the board against prescription
15 drug manufacturers, wholesale drug distributors, and pharmacy benefits managers, ***including***
16 ***those that process and pay claims on the basis of claims processed or paid for each plan***
17 ***sponsor.***

18 7 New Hampshire Prescription Drug Affordability Board; Assessments. Amend RSA 126-BB:8,
19 II to read as follows:

20 II. The aggregate level of annual assessments under subparagraphs (c) and (e) shall be an
21 amount sufficient to meet the board's expenditures authorized; ***provided that such amount shall***
22 ***not exceed 15 percent of the board's annual operating costs.*** The board may waive
23 assessments otherwise due under subparagraphs (c) and (e) when a waiver is determined to be in the
24 interests of the board and the parties to be assessed.

25 ***II-a. Any entity assessed a fee or other assessment under this section may appeal***
26 ***such action in accordance with RSA 541.***

27 8 New Hampshire Prescription Drug Affordability Board; Rulemaking; Appeal. Amend RSA
28 126-BB:6, IV to read as follows:

29 IV. ***The appeals process for assessments issued by the board under RSA 126-BB:8.***

30 V. Any other matter required to implement this chapter.

31 9 New Paragraph; New Hampshire Prescription Drug Affordability Board; Dedicated Fund.
32 Amend RSA 126-BB:8 by inserting after paragraph II the following new paragraph:

33 III. There is established a nonlapsing fund to be known as the New Hampshire prescription
34 drug affordability board administration fund, which shall be kept distinct and separate from all
35 other funds. The fund shall be continually appropriated to and administered by the board. All fees
36 and assessments collected under this section shall be deposited in the fund. The board shall use the
37 fund, consistent with the provisions of this chapter, to receive funds and to reimburse costs incurred

Amendment to SB 450

- Page 3 -

1 by the board. The fund may be used to pay administrative, technical, legal support, or other costs
2 incurred by the board under this chapter. The state treasurer may invest moneys in the fund as
3 provided by law, and all interest received on such investment shall be credited to the fund.

4 10 New Section; Criminal Penalty. Amend RSA 126-BB by inserting after section 9 the
5 following new section:

6 126-BB:9-a Criminal Penalty. Any person who knowingly uses confidential information
7 obtained pursuant to this chapter or knowingly discloses confidential information obtained pursuant
8 to this chapter to any person not authorized to review such information shall be guilty of a
9 misdemeanor.

10 11 New Subparagraph; Dedicated Fund. Amend RSA 6:12, I(b) by inserting after subparagraph
11 (382) the following new subparagraph:

12 (383) Moneys deposited in the New Hampshire prescription drug affordability board
13 administration fund, established in RSA 126-BB:8, III.

14 12 Repeal. RSA 126-BB:8, I(c)(4), relative to annual assessment of pharmacy benefits
15 managers, is repealed.

16 13 Effective Date. This act shall take effect July 1, 2022.

Amendment to SB 450

- Page 4 -

2022-1202s

AMENDED ANALYSIS

This bill clarifies the definition of manufacturer for purposes of the prescription drug affordability board; expands the ability of alternates to sit on the prescription drug affordability board; changes the executive director position from a classified to unclassified position; clarifies the board's authority to assess fees; establishes a dedicated fund to support the board; and establishes a criminal penalty for violation of confidentiality requirements.

Sen. Sherman, Dist 24
Sen. Bradley, Dist 3
March 29, 2022
2022-1254s
05/04

Floor Amendment to SB 450

1 Amend the bill by replacing section 1 with the following:

2

3 1 New Hampshire Prescription Drug Affordability Board; Definition of Manufacturer and
4 Pricing Unit. Amend RSA 126-BB:1, IV and V to read as follows:

5 IV. "Manufacturer" means a manufacturer of prescription drugs that are distributed in the
6 state. A manufacturer excludes a packager, repackager, labeler, and relabeler *unless the*
7 *packager, repackager, labeler, or relabeler sets the price or controls the price of a*
8 *prescription drug.*

9 V. "Pricing unit" means the smallest [~~dispensable amount of a prescription drug that could~~
10 ~~be dispensed~~] *available package that can be used to dispense the smallest amount of a*
11 *prescription drug.*

12

13 Amend RSA 126-BB:8, II as inserted by section 7 of the bill by replacing it with the following:

14

15 II. The aggregate level of annual assessments under subparagraphs (c) and (e) shall be an
16 amount sufficient to meet the board's expenditures authorized; *provided that such amount shall*
17 *not exceed 125 percent of the board's annual operating costs.* The board may waive
18 assessments otherwise due under subparagraphs (c) and (e) when a waiver is determined to be in the
19 interests of the board and the parties to be assessed.

Floor Amendment to SB 450

- Page 2 -

2022-1254s

AMENDED ANALYSIS

This bill clarifies the definition of manufacturer and pricing unit for purposes of the prescription drug affordability board; expands the ability of alternates to sit on the prescription drug affordability board; changes the executive director position from a classified to unclassified position; clarifies the board's authority to assess fees; establishes a dedicated fund to support the board; and establishes a criminal penalty for violation of confidentiality requirements.

Committee Minutes

SENATE CALENDAR NOTICE
Health and Human Services

Sen Jeb Bradley, Chair
Sen James Gray, Vice Chair
Sen Kevin Avard, Member
Sen Tom Sherman, Member
Sen Rebecca Whitley, Member

Date: January 12, 2022

HEARINGS

Thursday	01/20/2022
(Day)	(Date)
Health and Human Services	Legislative Office Building 101 10:00 a.m.
(Name of Committee)	(Place) (Time)
10:00 a.m. SB 407-FN	relative to expanding Medicaid to include certain postpartum health care services and making an appropriation therefor.
10:15 a.m. SB 408-FN	directing the department of health and human services to make adjustments to the facility fee reimbursement schedule for freestanding birthing centers.
10:30 a.m. SB 419-FN	relative to public health networks.
10:45 a.m. SB 444-FN	relative to childhood adverse experiences treatment and prevention.
11:00 a.m. SB 450	relative to the prescription drug affordability board.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

SB 407-FN

Sen. Prentiss
Sen. Whitley
Rep. M. Murray
Sen. D'Allesandro

Sen. Bradley
Sen. Hennessey
Sen. Cavanaugh
Sen. Soucy

Sen. Rosenwald
Sen. Watters
Sen. Sherman
Rep. Nordgren

Sen. Perkins Kwoka
Sen. Kahn
Sen. Gannon

SB 408-FN

Sen. Prentiss
Sen. Kahn
Rep. Heath

Sen. Perkins Kwoka
Sen. Sherman

Sen. Bradley
Rep. Nordgren

Sen. Whitley
Rep. Murphy

SB 419-FN

Sen. Prentiss
Sen. Perkins Kwoka
Sen. Cavanaugh
Rep. Marsh

Sen. Rosenwald
Sen. Whitley
Sen. Sherman

Sen. Soucy
Sen. Watters
Sen. D'Allesandro

Sen. Carson
Sen. Kahn
Rep. Murphy

SB 444-FN

Sen. Whitley
Sen. Cavanaugh
Sen. Prentiss
Rep. Wallner

Sen. Watters
Sen. Sherman
Sen. Kahn
Rep. Altschiller

Sen. Hennessey
Sen. Rosenwald
Sen. Soucy
Rep. Wazir

Sen. Carson
Sen. Perkins Kwoka
Sen. D'Allesandro
Rep. Luneau

SB 450

Sen. Sherman -
Sen. Gannon
Rep. Marsh

Sen. Rosenwald
Sen. Perkins Kwoka
Rep. Murphy

Sen. Watters
Sen. Prentiss

Sen. Carson
Rep. Merchant

Cameron Lapine 271-2104

Jeb Bradley
Chairman

Senate Health and Human Services Committee

Cameron Lapine 271-2104

SB 450, relative to the prescription drug affordability board.

Hearing Date: January 20, 2022

Time Opened: 11:50 a.m.

Time Closed: 12:12 p.m.

Members of the Committee Present: Senators Bradley, Gray, Avard, Sherman and Whitley

Members of the Committee Absent: None

Bill Analysis: This bill expands the ability of alternates to sit on the New Hampshire prescription drug affordability board, revises the board's conflict of interest requirements and certain fee assessments.

Sponsors:

Sen. Sherman

Sen. Rosenwald

Sen. Watters

Sen. Carson

Sen. Gannon

Sen. Perkins Kwoka

Sen. Prentiss

Rep. Merchant

Rep. Marsh

Rep. Murphy

Who supports the bill: Representative William Marsh (Carroll County District 8), Senator Rebecca Perkins Kwoka (Senate District 21), Senator David Watters (Senate District 4), Senator Cindy Rosenwald (Senate District 13), Senator Sharon Carson (Senate District 14), Heather Carroll (NH Alliance for Health Aging), Patricia Anastasia, Jake Berry (New Futures), Holly Stevens (NAMI-NH), Attorney Robert Berry (DHHS), Representative Gary Merchant (Sullivan County District 4), and Senator Tom Sherman (Senate District 24).

Who opposes the bill: Julie Smith, Amy Ellis, Patricia Jorgensen, and Kelly Waitte.

Who is neutral on the bill: None.

Summary of testimony presented in support:

Senator Tom Sherman

Senate District 24

- Senator Sherman said that creating the Prescription Drug Affordability Board was a complex endeavor. He said that they attempted to include everything when they first created it but some things have come up along the way that need to be addressed to make it more workable. He said that most of the needed changes are being made in a

House Bill but some issues emerged after the House filing deadline and so Senator Sherman filed SB 450.

- Senator Sherman said that (a), (b), (c), and (d) on Page 1 allow the flexibility to have an alternate member replace any member of the Board at the discretion of the Chair. He said that the purpose is to ensure that an alternate member can be available, as there have been problems getting members in during the COVID-19 pandemic.
- Senator Sherman said that Section 2 on Page 1 standardizes the conflict of interest language of the Board with the broader conflict of interest statute. He said that it did not make sense to have something different for the Board.
- Senator Sherman deferred commentary on Section 3 on Page 2 to Representative Merchant. He said that the change is to determine the group by function, rather than class.
- Senator Gray asked, referencing Line 20 on Page 1, if he was correct in understanding the language that any alternate member could replaced any member of the Board, even if they are not the alternate designated to replace a specific member.
 - Senator Sherman said that the alternate members track the functions of the Board and are aware of what it is doing so that they can serve if needed. He said that there may be one alternate member who cannot attend a specific meeting but another who can. He said that with assigned, specific alternates there is not the flexibility to meet the quorum requirements based on who is available or not. Senator Sherman said that, for example, if Senator Sherman or Senator Carson cannot participate in a particular meeting, and Senator Rosenwald, the alternate Senate member, cannot attend, there is not currently an ability for another alternate member to fill that spot for the day.
 - Senator Gray said that that was getting to his point and said he does not think it is appropriate for the Chair to pick any alternate member to replace any member of the Board.
 - Senator Sherman said that he understood Senator Gray's concern and said that a priority could be given to certain alternate member when considering who to replace a certain member. He said that there could be a list of prioritized alternate members to replace, for example, a Senate-appointed member. He said that a problem with the Board is that it is a small board with a small number of alternate members. He said that the Board needs to be able to meet its quorum requirements. He also said that it was not intended that the members would be legislators and that that happened by accident.

Representative Gary Merchant and Attorney Robert Berry

Sullivan County District 4 and Prescription Drug Affordability Board, Chair, and General Counsel Specialist, Department of Health and Human Services

- Representative Merchant said that the Board is administratively attached to the Department of Health and Human Services (DHHS) but is independent.
- Rep. Merchant said that what SB 450 is trying to accomplish, regarding alternate members, is maximizing the opportunity to meet the quorum requirements given the difficulties of scheduling around legislative members. He said that it was not intended that the members of the Board be legislative members, and said that the Clerk is an

attorney from AARP. He said that the point is to give the Chair flexibility to choose from a small group of alternate members to pick people who have the ability to attend.

- Rep. Merchant said that the conflict of interest section in SB 450 is straightforward based on the rules for the General Court.
- Rep. Merchant said that the Board is self-funded through assessing fees on the pharmacy supply chain. He said that there was a quirk with some pharmacy benefit managers, where some provide drug benefits and some do other things, so it was decided that it was easier and better to put all pharmacy benefit managers into a bucket to minimize confusion.
- Rep. Merchant said that, when asking entities to register with the Board, it became clear that the terminologies used in the field are different than the terminologies used in the statute. He said that there are some entities that take a large bucket of pills and divide them into smaller containers with their own labels, codes, and prices. He said that there are others who are just repackaging the drugs. Rep. Merchant said that whoever controls the pricing of a drug should be the one accountable.
- Rep. Merchant request that Line 7 on Page 2 be amended to add “includes any packager, relabeler, labeler, or repackager that sets or controls the price of a drug sold on the commercial market.”
- Rep. Merchant said that the Board is ahead of, and has done more, than older, more established Boards.
- Senator Bradley said that Senator Gray made a good point with regards to the alternate members. He said that he would not want a Representative replacing a Senator and vis-versa. He said that if more alternate members are needed, they could fix the appointment of alternate members.
 - Senator Sherman asked if Senator Bradley was suggesting increasing the number of alternate members. He said that members do not need to be members of their respective chambers.
 - Senator Bradley asked if the Senate President appoints one alternate members.
 - Senator Sherman proposed saying that the Senate President shall appoint two alternate members.
 - Senate Bradley said that most people would read that language to mean the Senate President should appoint two Senators to the Board. He said that if that is not the intent then it should be clarified because it does not read that way to Senator Bradley.
 - Senator Sherman said that the change would be on Lines 3 through 7 on Page 1, to clarify that the Senate President, for example, could appoint non-Senate members.
 - Senator Gray said that, since a quorum is three members, if there is not a quorum one group will not be represented because there will only be two members present.
 - Rep. Merchant said that there are two members appointed by the Senate, two members appointed by the House, and some members appointed by the Governor. He said that the intent was not to have members be legislators and that, by comparison, there are not legislative members on the Pharmacy Board or Board of Nursing.
 - Senator Gray said that the point of his comments is that the Senate President, the Speaker, and the Governor may appoint people based on their philosophies.

He said that if only two people attend a meeting, one of those three groups will not be represented.

- Senator Sherman said that solution to Senator Gray's concerns is to increase the number of alternate members and clarify that they do not need to be legislators.
- Senator Bradley directed Senator Sherman to work with Senator Gray on an amendment and ensure he is on board.
- Senator Gray said that increasing the number the alternate members if fine for him but the point of a quorum is to ensure that all groups are represented as well as possible.

Summary of testimony presented in opposition: None.

Neutral Information Presented: None.

cml
Date Hearing Report completed: January 25, 2022

Speakers

Senate Remote Testify

Health and Human Services Committee Testify List for Bill SB450 on 2022-01-
Support: 8 Oppose: 4

<u>Name</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>
Marsh, William	An Elected Official	Carroll 8	Support
Perkins Kwoka, Senator Rebecca	An Elected Official	Myself	Support
Watters, Senator David	An Elected Official	Myself	Support
Rosenwald, Cindy	An Elected Official	SD 13	Support
Carson, Senator Sharon	An Elected Official	Myself	Support
Carroll, Heather	A Member of the Public	NH Alliance for Healthy Aging	Support
Anastasia, Patricia	A Member of the Public	Myself	Support
Berry, Jake	A Lobbyist	New Futures	Support
Smith, Julie	A Member of the Public	Myself	Oppose
Ellis, Amy	A Member of the Public	Myself	Oppose
Jorgensen, Patricia	A Member of the Public	Myself	Oppose
Waitte, Kelly	A Member of the Public	Myself	Oppose

Testimony

Written Testimony
SB 450 – Prescription Drug Affordability Board
Senate Health and Human Services
January 20, 2022

Good morning, Mister Chairman, members of the Senate HHS committee, and members of the public. For the record, my name is Rep. Gary Merchant, Sullivan County, District #4, which is Ward 2, Claremont NH. I am also the chair of the Prescription Drug Affordability Board.

I come before you today in support of SB 450. The legislature created RSA 126-BB which established the Prescription Drug Affordability Board. The intent of the legislation was for the board to determine annual public payor spending targets for prescription drugs, develop and implement policies and procedures for the collection of prescription drug price data, and implement a registry of various stakeholders in the pharmacy supply chain as manufacturers, pharmacy benefit managers, drug wholesalers necessary to issues reasonable user or assessment fees to fund the board to meet its' statutory obligations.

The board met several times during 2021. During board meetings, the board became aware of the need to revise certain sections of RSA 126-BB, specifically the sections related to establishing a quorum of the board as it relates to alternates and standardization of a conflict of interest.

As written, an alternate can only sub for certain individuals and not for anyone appointed the board. For example, the alternate appointed by the Governor may only sub for the individual appointed by the Governor and not for other individuals appointed by the Senate president or the Speaker of the House. Limiting substitution of alternates has created challenges for the board to establish a board quorum. The proposed change to allow an alternate to sub for any appointed member to the board will lessen this challenge.

Regarding the conflict-of-interest statement, during a board meeting the board reviewed the state conflict of interest in RSA 15-B against the one in statute. The board believes use of this well-established conflict-of-interest statement which will be in line with current practice.

When reviewing the assessment fees during a board meeting, the board became aware of a potential confusion related to pharmacy benefit managers or PBMs. Some PBMs only process claims or pay claims for some entities but may include these functions along with providing the actual drug benefit to other entities. The proposed change assigns all PBMs in the same assessment fee.

During registration of manufactures this past month, the board learned about confusion on exclusions related to manufacturers as packager, repackager, labeler, relabeler. A repackager may take bulk pills from a manufacturer and repackage the pills into smaller packages to sell in the commercial market. This entity assigns its' own drug code and establishes the selling price of the small package sold into the commercial market. The intent of the statute was for those

entities that control the price of a commercial product to submit pricing data to the board. To avoid confusion related to the exclusions, I ask that the bill be amended on page 2, line 7 to read “....and includes any packager, relabeler, labeler, or repackager that sets or controls the price of a drug sold in the commercial market”

For these reasons, I ask members of the Senate Health and Human Services committee to support SB 450.

Cameron Lapine

From: Carole Boutin <ctbcne@gmail.com>
Sent: Tuesday, March 8, 2022 3:14 PM
To: Cameron Lapine
Subject: Drug Affordability Board

"Granite Staters need fair Drug prices. As Senate Health and Human Services Committee considers legislation in Executive Session regarding the New Hampshire Prescription Drug Affordability Board, we ask that you consider how important drug price transparency for the New Hampshire tax payers and thousands of Granite Staters who receive their prescription drugs through the public payors, as public employees. Nearly 85% of New Hampshire residents over the age of 45 (and from all political parties) say being able to afford Rx drugs is extremely or very important to them. No one should have to choose between lifesaving medication or food. Many do, each day. This Board is a way to bring needed relief and it was established, in a bi-partisan way, in 2020 to do just that.

Please support the New Hampshire Prescription Drug Affordability Board. Granite Staters are counting on you to help them afford the medication they need and to do the right thing for Granite Staters."

--

Carole Boutin
AARP Volunteer

Cameron Lapine

From: Rick Farr <rickbfarr@gmail.com>
Sent: Tuesday, March 8, 2022 3:34 PM
To: Cameron Lapine
Cc: Rick Farr
Subject: New Hampshire Prescription Drug Affordability Board

Dear Cameron Lapine,

Granite Staters need fair Drug prices! As Senate Health and Human Services Committee considers legislation in Executive Session regarding the New Hampshire Prescription Drug Affordability Board, we ask that you consider how important drug price transparency for the New Hampshire tax payers and thousands of Granite Staters who receive their prescription drugs through the public payors, as public employees. Nearly 85% of New Hampshire residents over the age of 45 (and from all political parties) say being able to afford Rx drugs is extremely or very important to them. No one should have to choose between life saving medication or food. Many do, each day. This Board is a way to bring needed relief and it was established, in a bi-partisan way, in 2020 to do just that.

Thank you for supporting fair drug prices!

Rick Farr
646 North Stark Hwy
Weare, NH 03281
rickbfarr@gmail.com
603-529-8785

Cameron Lapine

From: MARC LACROIX <malacroix@aol.com>
Sent: Tuesday, March 8, 2022 4:06 PM
Subject: drug prices

I understand you will be discussing the drug affordability board.

In today's environment of high inflation, record gas prices I can not understand why anyone would want to get rid of a board which may decrease prices. Please keep this board intact and focus on improving it, not eliminating it.

Marc Lacroix
Concord

Cameron Lapine

From: Richard Moore <richardmoore748@gmail.com>
Sent: Tuesday, March 8, 2022 4:12 PM
To: Jeb Bradley; James Gray; Tom Sherman; Becky.White@leg.state.nh.us; Kevin Avard; Cameron Lapine
Cc: Richard Moore
Subject: Please Support the "Prescription Drug Affordability Board"

Hi,

I am a retiree in Chichester, NH and I am asking you as members of the NH Senate HHS Executive Board to support the Prescription Drug Affordability Board (PDAB) created last session and referred to in SB 450 and HB1566.

There are attempts, apparently by the Prescription Drug Industry, to eliminate the PDAB before it even starts. Please continue to support the creation and ongoing activities of the PDAB. The Prescription Drug Industry is extremely complicated and not the least bit transparent. Almost everybody has stories of paying high prices for prescriptions with no real reason for the high prices. The Epiderm price rises a couple of years ago is a great example of the abuse of prescription drug prices, just because they can.

Please support the newly created PDAB and allow it to function in a manner somewhat similar to a Public Utilities Commission process. The people in NH and all of the U.S. need your support for fair and reasonable prescription drug prices.

Please support the Prescription Drug Affordability Board.

Thanks

Richard Moore
Chichester, NH

Cameron Lapine

From: frances donohue <bamagirlinnh@gmail.com>
Sent: Tuesday, March 8, 2022 5:08 PM
To: Cameron Lapine
Subject: Prescription Drugs

Mr. Lapine:

Granite Staters need fair Drug prices. As Senate Health and Human Services Committee considers legislation in Executive Session regarding the New Hampshire Prescription Drug Affordability Board, we ask that you consider how important drug price transparency for the New Hampshire tax payers and thousands of Granite Staters who receive their prescription drugs through the public payors, as public employees. Nearly 85% of New Hampshire residents over the age of 45 (and from all political parties) say being able to afford Rx drugs is extremely or very important to them. No one should have to choose between life saving medication or food. Many do, each day. This Board is a way to bring needed relief and it was established, in a bi-partisan way, in 2020 to do just that.

Please support the New Hampshire Prescription Drug Affordability Board. Granite Staters are counting on you to help them afford the medication they need and to do the right thing for Granite Staters

Sincerely

Frances Donohue

Cameron Lapine

From: MARC BOYD <marcboyd@comcast.net>
Sent: Tuesday, March 8, 2022 6:19 PM
To: Jeb Bradley; James Gray; Tom Sherman; Becky Whitley; Kevin Avard; Cameron Lapine
Subject: Granite Staters need fair Drug prices

“Granite Staters need fair Drug prices. As Senate Health and Human Services Committee considers legislation in Executive Session regarding the New Hampshire Prescription Drug Affordability Board, we ask that you consider how important drug price transparency for the New Hampshire tax payers and thousands of Granite Staters who receive their prescription drugs through the public payors, as public employees. Nearly 85% of New Hampshire residents over the age of 45 (and from all political parties) say being able to afford Rx drugs is extremely or very important to them. No one should have to choose between lifesaving medication or food. Many do, each day. This Board is a way to bring needed relief and it was established, in a bi-partisan way, in 2020 to do just that.”

Please support the New Hampshire Prescription Drug Affordability Board. Granite Staters are counting on you to help them afford the medication they need and to do the right thing for Granite Staters.”

Thank you.

*Marc A. Boyd
5 Surrey Coach Lane
Bow, NH
03304*

Cameron Lapine

From: DELORES PERROTTA <dperrotta15@comcast.net>
Sent: Wednesday, March 9, 2022 6:30 AM
To: Jeb Bradley; James Gray; Tom Sherman; Becky Whitley; Kevin Avard; Cameron Lapine
Subject: Drug Affordability Board

Please support the New Hampshire Prescription Drug Affordability Board (consisting of members from all political parties) so that they may bring drug transparency and drug affordability to New Hampshire citizens . Eighty-five percent of New Hampshire residents over the age of 45 believe this is extremely or very important to them.

Thank your attention to this matter.

Sincerely,
Delores Perrotta, Resident of Raymond, NH

Cameron Lapine

From: Jim Isaak <CS2010@jimisaak.com>
Sent: Wednesday, March 9, 2022 7:35 AM
To: Jeb Bradley; James Gray; Tom Sherman; Becky Whitley; Kevin Avard; Cameron Lapine
Subject: Please support the NH Prescription Drug Affordability Board

Granite Staters need fair Drug prices. As Senate Health and Human Services Committee considers legislation in Executive Session regarding the New Hampshire Prescription Drug Affordability Board, we ask that you consider how important drug price transparency for the New Hampshire tax payers and thousands of Granite Staters who receive their prescription drugs through the public payors, as public employees. Nearly 85% of New Hampshire residents over the age of 45 (and from all political parties) say being able to afford Rx drugs is extremely or very important to them. No one should have to choose between life saving medication or food. Many do, each day. This Board is a way to bring needed relief and it was established, in a bi-partisan way, in 2020 to do just that.

thank you

Jim Isaak, Bedford, NH

www.JimIsaak.com

Voting Sheets

Senate Health and Human Services Committee

EXECUTIVE SESSION RECORD

2021-2022 Session

Bill # SB 450

Hearing date: 1-20-22

Executive Session date: 3-23-22

Motion of: Amendment 1185s Vote: 4-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Bradley, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Avard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Sherman	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: OTPA Vote: 4-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Bradley, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Avard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Sherman	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Bradley, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gray, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Avard	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Sherman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Sen. Sherman

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Wednesday, March 23, 2022

THE COMMITTEE ON Health and Human Services

to which was referred **SB 450**

AN ACT relative to the prescription drug affordability board.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 4-0

AMENDMENT # 1202s

Senator Tom Sherman
For the Committee

Cameron Lapine 271-2104

HEALTH AND HUMAN SERVICES

SB 450, relative to the prescription drug affordability board.

Ought to Pass with Amendment, Vote 4-0.

Senator Tom Sherman for the committee.

General Court of New Hampshire - Bill Status System

Docket of SB450

Docket Abbreviations

Bill Title: relative to the prescription drug affordability board.**Official Docket of SB450.:**

Date	Body	Description
12/30/2021	S	To Be Introduced 01/05/2022 and Referred to Health and Human Services; SJ 1
1/13/2022	S	Hearing: 01/20/2022, Room 101, LOB, 11:00 am; SC 3
3/23/2022	S	Committee Report: Ought to Pass with Amendment #2022-1202s , 03/31/2022; SC 13
3/31/2022	S	Committee Amendment #2022-1202s , AA, VV; 03/31/2022; SJ 7
3/31/2022	S	Sen. Sherman Floor Amendment #2022-1254s , AA, VV; 03/31/2022; SJ 7
3/31/2022	S	Ought to Pass with Amendments 2022-1202s and 2022-1254s, MA, VV; OT3rdg; 03/31/2022; SJ 7
4/1/2022	H	Introduced 03/31/2022 and referred to Executive Departments and Administration
4/6/2022	H	Public Hearing: 04/25/2022 11:15 am LOB 302-304
4/26/2022	H	Executive Session: 04/25/2022 11:15 am LOB 302-304
4/26/2022	H	Majority Committee Report: Refer for Interim Study (Vote 10-9; RC)
4/26/2022	H	Minority Committee Report: Ought to Pass
5/4/2022	H	Refer for Interim Study: MF DV 164-168 05/04/2022 HJ 11
5/4/2022	H	Ought to Pass: MA RC 173-161 05/04/2022 HJ 11
5/4/2022	H	Reconsider SB450 (Rep. Goley): MF DV 157-175 05/04/2022 HJ 11
6/7/2022	H	Enrolled (in recess of) 05/26/2022 HJ 14
6/6/2022	S	Enrolled Adopted, VV, (In recess 05/26/2022); SJ 13
6/22/2022	S	Signed by the Governor on 06/17/2022; Chapter 0244; Effective 07/01/2022

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: SB 450

Senate Committee: HHS

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: (Legislative Aides)

- Bill version as it came to the committee
- All Calendar Notices
- Hearing Sign-up sheet(s)
- Prepared testimony, presentations, & other submissions handed in at the public hearing
- Hearing Report
- Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: (Legislative Aides)

All amendments considered in committee (including those not adopted):

- amendment # 1205 - amendment # 1185s
- amendment # 1116s - amendment # _____
- Executive Session Sheet
- Committee Report

Floor Action Documents: (Clerk's Office)

All floor amendments considered by the body during session (only if they are offered to the senate):

- amendment # 1254 - amendment # _____
- amendment # _____ - amendment # _____

Post Floor Action: (if applicable) (Clerk's Office)

- Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):
- Enrolled Bill Amendment(s)
- Governor's Veto Message

All available versions of the bill: (Clerk's Office)

- as amended by the senate as amended by the house
- final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Cameron M. Feltine
Committee Aide

6-11-02
Date

Senate Clerk's Office AK