

CHAPTER 244  
SB 450 - FINAL VERSION

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

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

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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.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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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:*

1 244:1 New Hampshire Prescription Drug Affordability Board; Definition of Manufacturer and Pricing  
2 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 state. A  
4 manufacturer excludes a packager, repackager, labeler, and relabeler ***unless the packager, repackager,***  
5 ***labeler, or relabeler sets the price or controls the price of a prescription drug.***

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

8 244:2 New Hampshire Prescription Drug Affordability Board; Alternates. Amend RSA 126-BB:2, I to  
9 read as follows:

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

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

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

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

26 244:3 New Hampshire Prescription Drug Affordability Board; Executive Director. Amend RSA 126-  
27 BB:2, VI to read as follows:

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

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

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

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

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

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

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

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

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

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

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

V. Any other matter required to implement this chapter.

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

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

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

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1       126-BB:9-a Criminal Penalty. Any person who knowingly uses confidential information obtained  
2 pursuant to this chapter or knowingly discloses confidential information obtained pursuant to this chapter  
3 to any person not authorized to review such information shall be guilty of a misdemeanor.

4       244:11 New Subparagraph; Dedicated Fund. Amend RSA 6:12, I(b) by inserting after subparagraph  
5 (382) the following new subparagraph:

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

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

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

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