HB 645-FN - AS INTRODUCED

2025 SESSION

25-0073
05/08

HOUSE BILL ***645-FN***

AN ACT relative to data collection and reporting requirements of the prescription drug affordability board.

SPONSORS: Rep. Edwards, Rock. 31; Rep. Leishman, Hills. 33; Sen. Rosenwald, Dist 13; Sen. Rochefort, Dist 1

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill requires reports issued by the prescription drug affordability board to describe the source of the data, encourages the use of memorandums of understanding between the board and state agencies regarding data collection, and directs the board to use data gathered by other agencies or entities whenever feasible to meet reporting requirements. The bill repeals certain drug price notification, confidentiality, and registration requirements. The bill also defines "data steward" for purposes of such data collection.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

25-0073
05/08

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to data collection and reporting requirements of the prescription drug affordability board.

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

1 New Paragraph; Prescription Drug Affordability Board; Definition of Data Steward. Amend RSA 126-BB:1 by inserting after paragraph II the following new paragraph:

II-a. "Data steward" means a person or entity responsible for the collection, management, transformation, analysis, and reporting of data with the responsibility of ensuring the quality and fitness of the entity's data assets, including the metadata for those data assets.

2 Powers and Duties of the Board. Amend RSA 126-BB:5 to read as follows:

126-BB:5 Powers and Duties of the Board. The board has the following powers and duties:

I.(a) Beginning with the year 2022 and in consultation with the advisory council, the board shall identify strategies that optimize spending by public payors for pharmaceutical products while reasonably ensuring subscriber access to needed pharmaceutical products. To achieve this goal, the board shall determine annual spending targets for prescription drugs purchased by public payors based upon a 10-year rolling average of the medical care services component of the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index, medical care services index, plus a reasonable percentage for inflation and minus a spending target for pharmacy savings as determined by the board.

(b) The board shall determine spending targets on specific prescription drugs that may cause affordability challenges to enrollees in a public payor health plan. Such targets shall consider any medical cost offsets achieved by utilization of the drug.

(c) The board shall determine which public payors are likely to exceed the spending targets determined under subparagraph (a).

(d) The board shall identify reports necessary to support the board's recommendations and work with existing data collectors within the state, including state agencies, to avoid redundant data collection and report formulation. Each report shall include information regarding the source of the data contained therein, any limitations of the data in rendering the report, how the report should be interpreted based on data availability, and whether additional data would improve the value of the report in supporting board recommendations.

(e) The board shall enter into a memorandum of understanding (MOU) with the department of health and human services and other state agencies, as appropriate, regarding data collection and information sharing practices. Whenever possible, an

existing memorandum MOU between the department of health and human services and another state agency shall be modified or amended to address information and data sharing between the agency and board. The MOU shall follow common processes and shall, at a minimum, include any cost sharing arrangement between the board and agency.

(f) The board shall have the authority to collect data from various third parties such as drug manufacturers and pharmacy benefit managers necessary for board analysis to create reports for the board to fulfill its statutory responsibilities. The board may work with designated state agencies to create a data call based on board requirements for data. The state agency shall receive, store, and protect the data based upon the board's authority.

(g) The board shall have the authority to enforce compliance of an entity of a data call by a designated state agency. The board shall have a process to allow the third party to challenge the validity of the need for the data. An entity found to be non-compliant upon completion of the challenge process shall provide the requested data within 14 days. If the entity remains non-compliant after the 14-day data collection period, that entity shall be assessed a fee of $500 per day per requested data element up to a maximum of $25,000. Said fee shall be paid to the state of New Hampshire and shall be deposited into the state general fund.

II. The board may consider***, but shall not be limited to,*** the following data to accomplish its duties under this section:

(a) A public payor's prescription drug spending data, which the 3rd-party administrator or insurer for the public payor's health plan ***or other provision of health care provided by a plan*** shall provide to [~~the board~~] ***a state agency*** on behalf of the public payor upon request notwithstanding any provision of law to the contrary, including:

(1) Expenditures and utilization data for prescription drugs for each plan offered by a public payor***, including prescription drug expenditures administered through the plan's medical benefit***.

(2) The formulary for each plan offered by a public payor and prescription drugs common to each formulary.

(3) Pharmacy benefit management services and other administrative expenses of the prescription drug benefit for each plan offered by a public payor.

(4) Enrollee cost sharing for each plan offered by a public payor.

(5) Aggregate net spending on the prescription drug benefit.

(b) Data compiled by the department of health and human services***, insurance department, or other state agency***. Prescription drug spending data provided to the board under this subparagraph is confidential to the same extent it is confidential while in the custody of the entity that provided the data to the [~~board~~] ***department or agency***.

III. Based upon the prescription drug spending data ***or reports*** received under paragraph II, the board, in consultation with a representative of each public payor shall determine methods for the public payor to meet the spending targets established under paragraph I. While continuing to ensure adequate access by subscribers to [~~needed~~] ***medically necessary, as determined by a licensed health care provider,*** prescribed pharmaceutical products, the board shall [~~determine~~] ***make recommendations on*** whether the following methods ***may*** reduce costs to individuals purchasing prescription drugs through a public payor and [~~allow~~] ***support*** public payors ***efforts*** to meet the spending targets established under paragraph I:

(a) Negotiating specific rebate amounts on the prescription drugs that contribute most to spending that exceeds the spending targets.

(b) Changing a formulary when sufficient rebates cannot be secured under subparagraph (a).

(c) Establishing a common prescription drug formulary for all public payors.

(d) Prohibiting health insurance carriers in the state administering benefits for a public payor from offering on their formularies prescription drugs when the method described in subparagraph (b) is implemented.

(e) Purchasing prescription drugs in bulk or through a single purchasing agreement for use among public payors.

(f) Collaborating with other states and state prescription drug purchasing consortia to purchase prescription drugs in bulk or to jointly negotiate rebates.

(g) Allowing health insurance carriers providing coverage to small businesses and individuals in the state to participate in the public payor prescription drug benefit for a fee.

(h) Procuring common expert services for public payor, including but not limited to pharmacy benefit management services and actuarial services.

(i) Any other method identified by the board, including actions taken by other states or the federal government that if adopted in New Hampshire would contribute to the board's objective.

IV. By November 1, 2020 and annually thereafter, the board shall report its recommendations, including prescription drug spending targets, their strategies for optimization of affordability of prescription drugs for the state and all of its residents, the progress of implementing those recommendations, ***actions adopted by other states or the federal government,*** as well as the annual net spending by public payors on prescription pharmaceutical products as a measure of the efficacy of implementation of those recommendations to date, to the standing committees of the general court with jurisdiction over health coverage and insurance matters and to the governor. This report shall also contain***, at a minimum,*** the following information about prescription drugs, both brand name and generic:

(a) The [~~25~~] ***50*** most frequently prescribed drugs in the state;

(b) The [~~25~~] ***50*** costliest drugs as determined by the total amount spent on those drugs in the state; and

(c) The [~~25~~] ***50*** drugs with the highest year-over-year cost increases as determined by the total amount spent on those drugs in the state.

(d) Actions or policies adopted by other states or the federal government that if adopted in New Hampshire would contribute to the purposes of the board.

V. The board may apply for and receive funds, grants, or contracts from public and private sources.

3 Rulemaking. Amend RSA 126-BB:6 to read as follows:

126-BB:6 Rulemaking. The board shall adopt rules under RSA 541-A for the following:

I. Procedures for drug price transparency as required under RSA 126-BB:7.

II. [~~The adoption of all fees under RSA 126-BB:8.~~

~~III. Proceedings for assessing civil fines under RSA 126-BB:10.~~

~~IV.~~] The appeals process for [~~assessments issued by the board under RSA 126-BB:8~~] ***data requests issued on behalf of the board under RSA 126-BB:5***.

III. Designation of specific board members or alternates authorized to access sensitive data.

[~~V.~~] ***IV.*** Any other matter required to implement this chapter.

4 Drug Price Transparency; Non-disclosure Requirements. Amend RSA 126-BB:7 to read as follows:

126-BB:7 Drug Price Transparency; Non-disclosure Requirements.

I. The board shall [~~develop and implement~~] ***follow the respective state agency's*** policies and procedures for its ***request to the agency regarding the*** collection, processing, storage, and analysis of clinical, financial, quality restructuring and prescription drug price data for the following purposes:

(a) To use, build, and improve upon and coordinate existing data sources and measurement efforts through the integration of data systems and standardization of concepts.

(b) To coordinate the development of a linked public and private sector information system.

(c) To emphasize data that is useful, relevant, and not duplicative of existing data.

(d) To minimize the burden on those providing data.

(e) To preserve the [~~reliability, accuracy, and integrity~~] ***confidentiality, integrity, and availability*** of collected data.

(f) To make reasonable accommodations for proprietary information held by a business entity or agency and ensure the confidentiality, integrity and security of such data.

(g) To ensure that descriptive and consistent data reporting standards are adhered to in all reports published by the board or a state agency or third-party entity acting on behalf of the board. Tables and graphs shall be formatted using an appropriate style guide for tables.

II. The board shall adopt rules ***or written procedures*** to ensure that:

(a) ***State agencies can request data on behalf of the board or direct*** payors, providers, prescription drug manufacturers, wholesale drug distributors, and pharmacy benefits managers [~~file data as required by RSA 126-BB:9~~] ***to provide essential data to the board***.

(b) [~~Users~~] ***State agencies*** that obtain health data and information [~~from~~] ***requested by*** the board safeguard the identification of patients and health care practitioners.

(c) [~~Payors, providers, prescription drug manufacturers, wholesale drug distributors, and pharmacy benefits managers pay all assessments as required by RSA 126-BB:8.~~

~~(d)~~](1) Only [~~the~~] board ***members specifically designated to handle confidential or sensitive data,*** and employees assigned to the board may access the information received pursuant to this chapter and only for ***the*** purpose of effectuating the powers and duties granted the board by this chapter. ***The board's designees shall demonstrate a record of experience, knowledge, and technical capacity to responsibly manage, analyze, and report on large datasets, including, as appropriate, medical and pharmacy claims data.*** The board shall limit access to any information that it receives pursuant to this chapter to the smallest number of employees and other personnel possible; and all such individuals shall, as a condition of employment, be required to execute [~~non-disclosure~~] ***data-use*** agreements under which they are restricted from disclosing any information they may receive in connection with this chapter during their employment term and in perpetuity post-employment, ***with the exception of publicly released reports***.

(2) If the board, its members, employees, or personnel willfully shares or discloses for unauthorized purposes ***data or*** information that is trade secret information, confidential, commercial or proprietary information, or information designated as "confidential" by the owner of the information, the board***,*** [~~or~~] the individual***, or the data steward*** who made the unauthorized disclosure may be subject to any penalties available under federal and state laws, including trade secret misappropriation laws, to the extent permitted by law.

4 Repeal. The following are repealed:

I. RSA 126-BB:9, relative to drug price notifications and disclosures, confidentiality, and registration.

II. RSA 126-BB:7, II(a), relative to rules regarding drug price notifications and disclosure data.

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

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1/11/25

HB 645-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to data collection and reporting requirements of the prescription drug affordability board.

FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.

Estimated State Impact				
	FY 2025	**FY 2026**	**FY 2027**	**FY 2028**
Revenue	$0	$500 to $25,000	$500 to $25,000	$500 to $25,000
Revenue Fund(s)	Noncompliance fees			
Expenditures*	$0	$60,000 to $100,000	$60,000 to $100,000	$60,000 to $100,000
Funding Source(s)	General Fund			
Appropriations*	$0	$0	$0	$0
Funding Source(s)	None			

***Expenditure = Cost of bill** ***Appropriation = Authorized funding to cover cost of bill**

METHODOLOGY:

This bill directs the Prescription Drug Affordability Board to: (1) identify all reports and data necessary to fulfill its statutory obligations; (2) obtain necessary data through other state agencies (as opposed to directly collecting the data itself); and (3) enter into memorandums of understanding (MOUs) with relevant state agencies regarding data collection and information sharing practices. The bill provides the Board with the authority to collect data from third parties such as drug manufacturers and pharmacy benefits managers, and allows the Board to work with designated state agencies to create data calls directed to these entities. In addition, the bill allows the Board to enforce compliance with data calls by levying fees of $500 per day, not to exceed $25,000. Said fees shall be deposited into the state general fund.

The Board assumes that, on average, one entity per year will be imposed a fee for noncompliance, resulting in general fund revenue of $500 to $25,000 per year. In addition, the Board expects that conducting data calls on top of existing workloads will require additional personnel, estimated to cost between $60,000 and $100,000 per year. As the Board is statutorily funded by general funds and private donations, it is expected that this will be a general fund cost.

AGENCIES CONTACTED: