

Department of Planning and Budget
2025 General Assembly Session
State Fiscal Impact Statement

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ORIGINAL

Bill Number: SB271E **Patron:** Deeds
Bill Title: Prescription Drug Affordability Board established; drug cost affordability review.

Bill Summary: Establishes the Prescription Drug Affordability Board (the Board) for the purpose of protecting the citizens of the Commonwealth and other stakeholders within the health care system from the high costs of prescription drug products. The bill requires the Board to meet in open session at least four times annually, with certain exceptions and requirements enumerated in the bill. Members of the Board are required to disclose any conflicts of interest, as described in the bill. The bill also creates a stakeholder council for the purpose of assisting the Board in making decisions related to drug cost affordability. The bill tasks the Board with conducting affordability reviews of certain prescription drugs that are offered for sale in the Commonwealth. The bill lists factors for the Board to consider that indicate an affordability challenge for the health care system in the Commonwealth or high out-of-pocket costs for patients. The bill also provides that any person aggrieved by a decision of the Board may request an appeal of the Board's decision and that the Attorney General has authority to enforce the provisions of the bill.

The bill requires the Board to annually report its findings and recommendations to the General Assembly, beginning on December 31, 2026. Provisions of the bill apply to state-sponsored and state-regulated health plans and health programs and obligate such policies to limit drug payment amounts and reimbursements to an upper payment limit amount set by the Board, if applicable, following an affordability review. The bill specifies that Medicare Part D plans are not bound by such decisions of the Board.

The bill also requires the nonprofit organization contracted by the Department of Health to provide prescription drug price transparency to provide the Board access to certain data reported by manufacturers.

The bill provides that certain provisions will expire unless reenacted by the 2028 Session of the General Assembly.

The provisions of the bill, as amended, amends the criteria for biosimilars and removes certain criteria for healthcare providers.

Budget Amendment Necessary: Yes **Items Impacted:** 279

Explanation: VDH will require additional general fund appropriation to comply with the provisions of this legislation, attributable to Item 279 (Health Research, Planning and Coordination).

Fiscal Summary: The provisions of this legislation would have a fiscal impact on the Virginia Department of Health (VDH) to establish a Prescription Drug Affordability Board.

General Fund Expenditure Impact:

<u>Agency</u>	<u>FY2026</u>	<u>FY2027</u>	<u>FY2028</u>	<u>FY2029</u>	<u>FY2030</u>	<u>FY2031</u>
VDH (601)		\$895,740 - \$1,145,740	\$895,740 - \$1,145,740	\$895,740 - \$1,145,740	\$895,740 - \$1,145,740	\$895,740 - \$1,145,740

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TOTAL	\$895,740 - \$1,145,740	\$895,740 - \$1,145,740	\$895,740 - \$1,145,740	\$895,740 - \$1,145,740	\$895,740 - \$1,145,740
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Fiscal Analysis: The Board will be comprised of five nonlegislative citizen members as follows: two members appointed by the Speaker of the House of Delegates, two members appointed by the Senate Committee on Rules, and one member representing a local government in the Commonwealth appointed by the Governor. Additionally, the Governor must appoint three alternate nonlegislative members. These members may receive compensation as a member of the Board in accordance with the state budget of the Commonwealth and are entitled to reimbursement for expenses authorized by travel regulations promulgated pursuant to § 2.2-2823. The Board is required to meet in open session at least four times annually to review prescription drug product information. Additionally, the Board may meet in closed session to discuss proprietary data and information. The cost of five Board members attending at least four meetings per year comes roughly to \$7,740. This is based on \$120 for mileage, \$157 for lodging, \$60 for incidentals, and \$50 for compensation per member per meeting (\$1,935 for five members x four meetings = \$7,740). Any additional meetings would increase costs by these same amounts per Board member.

The chair of the Board shall hire an executive director, general counsel, and staff to support the Board's activities and Board staff shall receive a salary as provided in the budget of the Board. It is unknown how many staff members will be needed to support the board's activities and the anticipated salaries. Using other boards and commissions to derive an estimate, the Behavioral Health Commission, which was established in FY 2022, was provided \$348,774 for staff and associated office-related costs which were phased-in over the year to reflect the timing necessary to start up the Commission. Support for that board has since increased to \$767,883 for FY 2026. The Behavioral Health Commission currently has five staff: an executive director, three associate policy analysts, and an office manager whereas this board shall have eight members.

Virginia Health Information (VHI) is currently under contract with VDH to administer the prescription drug pricing transparency data collection program referenced in this bill. If the amount of analytical support needed from VHI is expected to drastically increase as a result of the creation of this Board, additional costs may be incurred.

The bill also provides that the Office of the Attorney General may pursue any appropriate available remedy under state law in enforcing the provisions of this article. The cost for VDH to hire an assistant attorney general I to handle enforcement of the bill is expected to be \$138,000 annually including salary and fringe benefits. Hiring an assistant attorney general is consistent with Prescription Drug Affordability Boards (PDAB) established by Maryland and Colorado, which have allocated up to \$250,000 for legal support.

The National Academy for State Health Policy (NASHP), a nonpartisan organization that provides model legislation and technical assistance to legislators and executive agencies interested in prescription drug affordability boards (PDABs), reports that Washington State and Colorado have implemented PDABs with similar responsibilities and approaches to what is outlined in HB483 as it relates to the Board's authority to set upper pay limits, the types of prescription drugs that the Board is authorized to consider for an affordability

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review, and who will benefit from any upper pay limits set (i.e., all consumers in the state). A breakdown of comparable PDAB from other states is below:

- Colorado
 - \$730,711 was appropriated for PDAB implementation in FY 2021 - FY 2022.
 - The Board is staffed by two full-time and two part-time assistant attorney general positions.
 - \$250,000 was allocated for additional contractors as needed.
- Washington
 - \$1,460,000 was appropriated for the PDAB from the general fund and \$31,000 from the insurance commissioner's regulatory account.
 - This amount includes staffing for four positions.
- Maryland
 - Operating with a \$1.0 million annual budget based on projected collected annual fees on manufacturers, pharmacy benefit managers, carriers, and wholesale distributors that sell prescription drugs in the state.
 - Estimated start-up costs of the PDAB were \$831,900 in FY 2020. PDAB activities are staffed by five full-time positions and one part-time assistant attorney general.
 - Like Colorado, the state allocated \$250,000 for additional contractors as needed.

The estimated cost for VDH to implement the provisions of this legislation is \$7,740 for lodging, \$138,000 for attorney services, and between \$750,000 and \$1,000,000 for PDAB implementation and administration. Total costs are estimated to be \$895,740 to \$1,145,740.

It is currently unclear as to how the upper payment limit amount established by the Board would impact medical assistance programs administered by the Department of Medical Assistance Services (DMAS). DMAS is currently determining the extent to which the provisions of this bill would apply to agency programs. Moreover, there is no way to know what drugs would be subject to an upper payment limit and how such limits would interplay with items such as managed care and pharmacy rebates. As such, the fiscal impact on medical assistance services is indeterminate at this time.

Other: This bill is similar to HB483.