

Department of Planning and Budget
2026 General Assembly Session
State Fiscal Impact Statement

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ORIGINAL

Bill Number: SB271H2

Patron: Deeds

Bill Title: Prescription Drug Affordability Board; established, drug cost affordability review, report.

Bill Summary: The substitute bill establishes the Prescription Drug Affordability Advisory Panel (the Panel) to conduct data analyses, develop policy recommendations, and identify implementation barriers related to strategies to improve prescription drug affordability, enhance price transparency, and strengthen data collection practices for prescription drugs across public and private payers. That each health plan regulated under the laws of the Commonwealth shall inform the Board of Pharmacy (the Board) of how the cost savings related to the maximum fair price pursuant to this section are directed to the benefit of enrollees with a priority on enrollee cost-sharing. The Commissioner is authorized to enforce the bill's provisions with any penalties being deposited into the Literary Fund. The bill also states that the Commissioner must collect paid claims and non-claims payments data for covered benefits from data suppliers.

The provisions of subsections C through H of § 54.1-3431.1 of the Code of Virginia, as created by the first enactment of this legislation, would become effective on January 1, 2027.

Budget Amendment Necessary: Yes

Items Impacted: 279, 288, and 469

Explanation: The Virginia Department of Health (VDH) will require additional general fund appropriation to comply with the requirements of this legislation, attributable to Item 279 (Health Research, Planning, and Coordination). The Department of Health Professions (DHP) will require additional nongeneral fund appropriation and positions to comply with the requirements of this legislation, attributable to Item 288 (Regulation of Professions and Occupations). The Department of Human Resources Management (DHRM) indicates that the bill would have an impact on the state employee health plan. The cost of this increase would be born by the general fund, state employee health care premiums, and agency nongeneral funds.

Fiscal Summary: While the Office of the Secretary of Health and Human Resources (OSHHR) is expected to establish the Prescription Drug Affordability Advisory Panel as required by the bill, the Office does not have sufficient resources to facilitate the Panel's responsibilities. For the purposes of this statement, it is assumed that VDH would provide the necessary support to OSHHR and incur the cost of facilitating the Panel duties. As such, there is minimal impact on the OSHHR; however, VDH is expected to have a general fund cost. In addition, DHP, and the Board of Pharmacy (the Board), are expected to incur costs associated with receiving data from health plans, coordinating with VDH on enforcement actions, and evaluating provided health plan data. The increase in nongeneral fund appropriation required to support increases in workload will need to be generated through fee increases for the Board. Existing fees and currently pending fee increases will not be sufficient to support the costs of this legislation. The bill requires that pharmacies be paid the required dispensing fee for such referenced drug as established by the cost dispensing survey required by 12VAC30-80-

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40, which is currently set at \$10.65. DHRM reports that requirement would increase costs for the general fund, state employees, and appropriate agency nongeneral funds.

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	-	\$1,397,288 - \$1,647,288				
DHP	-	-	-	-	-	-
Central Accounts	-	\$2,784,617	\$2,784,617	\$2,784,617	\$2,784,617	\$2,784,617
TOTAL		\$4,181,905 - \$4,431,905				

Nongeneral 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	-	-	-	-	-	-
DHP	-	\$702,450	\$1,404,900	\$1,404,900	\$1,404,900	\$1,404,900
Central Appropriations (Health Insurance)	-	\$982,806	\$982,806	\$982,806	\$982,806	\$982,806
Impacted Agencies (Health Insurance)	-	\$2,784,617	\$2,784,617	\$2,784,617	\$2,784,617	\$2,784,617
TOTAL		\$4,469,873	\$5,172,323	\$5,172,323	\$5,172,323	\$5,172,323

Position Impact:

<u>Agency</u>	<u>FY2026</u>	<u>FY2027</u>	<u>FY2028</u>	<u>FY2029</u>	<u>FY2030</u>	<u>FY2031</u>
VDH	-	-	-	-	-	-
DHP	-	9	9	9	9	9
TOTAL		9	9	9	9	9

Fiscal Analysis:

Virginia Department of Health:

OSHR is required to establish the Prescription Drug Affordability Advisory Panel to conduct data analyses, develop policy recommendations, and identify implementation barriers related to strategies to improve prescription drug affordability, enhance price transparency, and strengthen data collection practices for prescription drugs across public and private payers. The Panel must have six members consisting of five nonlegislative citizen members and one ex officio member. The Panel may employ staff or contract with experts in the field of prescription drug policy, affordability policy, or health data analytics, subject to available funding.

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This statement assumes that VDH would provide administrative, operational, and staffing support to the Panel, as OSHHR does not currently have sufficient infrastructure to support the Panel's operational and analytical functions. As such, Panel costs associated with drug review, analysis, reporting as well as direct Panel costs are reflected in VDH. If OSHHR were required to independently support these functions, additional infrastructure and staffing costs could be required.

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 and Colorado have implemented PDABs with similar responsibilities and approaches to what is outlined in HB483 as it relates to the Panel. Based on the experiences of states like Colorado, Washington, and Maryland, it is assumed that VDH would require between \$1.0 and \$1.25 million general fund to hire a vendor with sufficient expertise to meet the duties of the Panel as outlined in § 32.1-276.14.

The bill states that the Commissioner must collect paid claims and non-claim payment data for covered benefits from data suppliers. Virginia Health Information is the vendor that VDH is currently under contract with for similar services. It is assumed that VDH would continue to contract with VHI to collect non-claim payment data and the contract would be modified to collect additional information as required by the bill. VDH reports that the cost of this contract modification would be \$250,000 annually.

VDH must coordinate with the Board of Pharmacy and the Office of the Attorney General for any enforcement related actions for imposing a civil penalty. VDH does not currently maintain dedicated enforcement staff responsible for assessing or pursuing civil penalties under comparable authorities. Any penalty assessed pursuant to this legislation shall be deposited into the Literary Fund. While it is unknown the extent of enforcement actions necessary or how much revenue would be generated from civil penalties, VDH assumes that, at a minimum, one additional position would be needed. VDH estimates the cost of one additional enforcement position equivalent to an Assistant Attorney General I to support legal review, enforcement coordination, and civil penalty actions at approximately \$138,000 annually, including salary and fringe benefits. Hiring an assistant attorney general is consistent with similar efforts in other states which have allocated approximately \$250,000 for legal support.

The Panel is required to meet in open session at least four times annually to review prescription drug product information. Additionally, the Panel may meet in closed session to discuss proprietary data and information. The cost of six Panel members attending at least four meetings per year is estimated at \$9,288. This estimate is based on per-diem reimbursement assumptions of \$120 for mileage, \$157 for lodging, \$60 for incidentals, and \$50 for compensation per member per meeting (\$2,322 for six members x four meetings = \$9,288). Any additional meetings would increase costs by these same amounts per Panel member.

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The estimated costs for VDH to implement the provisions of this legislation are \$9,288 for lodging and member expenses, \$138,000 for attorney services, \$250,000 for VHI data collection, and between \$1,000,000 and \$1,250,000 for Panel analytical support, vendor services, and program administration. Total costs are estimated to be \$1,397,288 and \$1,647,288 annually. The Panel may employ staff or contract with experts in the field of prescription drug policy, affordability policy, or health data analytics, subject to available funding.

Department of Health Professions:

The provisions of the bill state that each health plan regulated under the laws of the Commonwealth must inform the Board of how the cost savings related to the maximum fair price pursuant to this section are directed to the benefit of enrollees with a priority on enrollee cost-sharing and shall submit to the Board of Pharmacy a report describing the savings achieved as a result of implementing upper payment limits and how those savings were used to reduce costs to consumers. Based on data from the National Association of Insurance Commissioners and the State Corporation Commission there are over 1,600 licensed health plan insurers (domestic and foreign) regulated by the Bureau of Insurance. If it is assumed that the Board is required to evaluate each plan's report to determine if it is appropriately directing cost savings to the benefit of the enrollees with a priority on enrollee cost-sharing then additional resources will be needed. DHP assumes that the review of the reports would require a deeper knowledge of the subject to identify potential misrepresentations rather than performing a cursory review. DHP states the Board would need at minimum six positions depending on the complexity of the plan review required with expertise in prescription drug policy, affordability policy, or health data analytics. Of the six total positions, one supervisor position at \$221,500 (salary and fringe benefits) with the pharmaceutical expertise and knowledge to conduct reviews and supervise the other positions is necessary as these provisions are outside the standard statutory jurisdiction of the Board. The five remaining positions would also conduct plan reviews, costs for these positions are \$154,900 each (salary and fringe). This estimate assumes that the Board would receive 1,600 reports per year and that one position can reasonably evaluate one report per day. Should evaluation of such reports be more involved, additional positions may be needed.

The bill states that an Employee Retirement Income Security Act of 1974 (ERISA) plan may elect to be subject to the provisions of this section by notifying the Board in writing by January 1 of each calendar year. Additionally, the bill states that no manufacturer subject to the provisions of this section shall remove a withdrawn drug from sale or distribution within the Commonwealth for the purpose of avoiding the impact of the rate limitations set forth in this section unless such manufacturer provides a written notice of withdrawal to the Board and the Department within 180 days prior to such withdrawal. It is unknown how many plans or manufacturers would provide such notification to the Board. The Board would need additional resources to track notifications, evaluate notifications to ensure compliance, and coordinate with the Commissioner and the Office of the Attorney General on any enforcement actions that may be necessary for noncompliance. To handle this workload the Board would need two administrative staff at \$127,000 each (salary and benefits) and one compliance position at \$154,900 to perform functions similar to current administrative proceedings division personnel to compile information, exhibits, and coordinate enforcement efforts.

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The Board of Pharmacy charges a range of fees for a variety of regulants, facilities, and professions. Existing fees and currently pending fee increases will not be sufficient to support the costs of this legislation. Based on past and pending fee actions, DHP indicates that the Board would need to increase fees by an average of 24 percent to 36 percent across all fees.

The provisions of subsections C through H of § 54.1-3431.1 of the Code of Virginia, as created by the first enactment of this legislation, would become effective on January 1, 2027. However, DHP maintains that the Board would need to start hiring these positions in FY 2027 so they will be trained and in place when the bill becomes effective. Therefore, six months of costs are assumed in FY 2027.

Department of Human Resource Management:

This legislation would also have an impact on the state employee health plan. The bill requires that pharmacies be paid the required dispensing fee for such referenced drug as established by the cost dispensing survey required by 12VAC30-80-40, which is currently set at \$10.65. The Department of Human Resource Management (DHRM) indicates that dispensing fees under the state employee health plan are typically less than \$0.25. DHRM estimates that adding an additional \$10.40 per prescription on average would increase pharmacy claim costs to the health plan by \$6,552,040 per year.

Additional costs for such claims will be paid out of the Health Insurance Fund (HIF), which is funded through premiums charged to state employees and their employing agencies. Agencies use general fund, nongeneral fund, or some combination of the two to make these premiums, depending on the fund sources available to the agency and from which source the employee is regularly paid. A portion of these costs, approximately 15 percent, would be paid by members of the state employee health plan, either through co-pays, co-insurance, or increased premiums. The remaining 85 percent would be charged to state agencies through higher premiums, which are currently paid 50 percent from the general fund and 50 percent from nongeneral fund sources. Increased health insurance premiums would require additional general fund appropriation be provided to state agencies. Based on the information provided by DHRM, \$2,784,617 from the general fund annually would need to be provided to state agencies to support the expected additional costs of this legislation.

Other: The Senate budget (286#1s) includes \$895,740 in FY 2027 and \$895,740 in FY 2028 and the House budget (280#1h) includes \$350,000 in FY 2027 and \$644,000 in FY 2028 to support the anticipated cost of this legislation.