

NH Prescription Drug Affordability Board

In-person / Remote Hybrid Meeting

April 3, 2023 10:00 AM

NOTE: This meeting was recorded. All related documents (and a recording of the entire meeting) are available at: [New Hampshire Prescription Drug Affordability Board | New Hampshire Department of Health and Human Services \(nh.gov\)](#)

CALL TO ORDER: Representative Gary Merchant, Chair, opened; introductions were made.

ATTENDING: In person: Representative Gary Merchant, Todd Fahey, Tom Sherman, Robert Woodward, Jason Aziz, Senator Cindy Rosenwald. Virtually: William Marsh, Representative James Murphy.

A quorum was established, following the elevation of both Cindy Rosenwald and Robert Woodward to full members.

ABSENT: Senator Sharon Carson.

AGENDA REVIEW: Representative Gary Merchant reviewed the agenda with the Board and stated he will be moving the discussion around drug cost reduction strategies to the end of the meeting to allow for ample time.

REVIEW AND APPROVE MINUTES OF FEBRUARY 6 MEETING: Representative Gary Merchant noted William Marsh's name still showed the title of Representative and needs to be removed. Tom Sherman made a motion to accept with proposed changes, Robert Woodward seconded. Motion passed via roll call.

MOU WITH DHHS: Attorney Robert Berry updated the Board on the status of the MOU. He stated that the House Finance Committee is proposing the Board change its funding mechanism to a general fund appropriation, rather than utilizing the collection of fees. He stated the Board should hold off on submitting the final MOU draft to Governor and Council until after the budget process plays out, as recommended by the DHHS Commissioner.

UPDATE ON EMAILS TO ENTITIES AS MANUFACTURERS AND DISTRIBUTORS: Nancy Plourde updated the Board with the status of the 2023 compliance. She stated a list of about 800 registrants was sent to DHHS Finance. Representative Gary Merchant also stated that we also closed the loop on a few questions presented by manufacturers on how the compliance applies to them.

LEGISLATIVE UPDATE ON HB 130 AND HB 172: Representative Gary Merchant updated the Board on the status of HB 130 and HB 170, and noted they have been retained by House Commerce. He also spoke about HB 2, which Mr. Berry had referenced, earlier, regarding the mechanism of funding the Board. The issue is with the constitutionality of the fees and that they need to present a benefit to the payor. Representative Merchant believes the Board needs legal counsel from the A.G.'s office, hopefully at the next meeting. Representative Merchant made a motion to have the A.G.'s advise on the issue, seconded by Tom Sherman. Motion passed via roll call.

BOARD DISCUSSION – STRATEGIES TO REDUCE DRUG COSTS: Jason Aziz discussed the ways he believes the state can reduce drug costs. Jason stated there is a CMS prescription reporting portal direct from the manufacturers that may broaden the availability of data, in addition claims data. He describes the data elements in CMS to be robust, including the top 50 most costly drugs and 50 most often prescribed. There are no utilization parameters in CMS, but there are in CHIS. HE feels he can work with fellow Board

member, Robert Woodward, to create a data set that both. There was further discussion on how to extract, analyze and report the necessary data. There was a short discussion about the importance of and pathway way to price transparency. All agreed there is a market-wide benefit to price transparency. Representative Merchant asked why public payors don't all use the same PBM, to which Senator Rosenwald stated she had attempted to broach the subject years ago and was met with a no. She added it would be even more complicated now, with the current system of managed care. The Board continued to discuss various strategies. Representative Merchant asked Jason to follow up with the Board with more information on the CMS site. Tom Sherman asked him to look at our statute, and if the reporting requirement would be rendered unnecessary given the CHIS and CMS data, especially given the penalty for breach of confidentiality. Jason recommended analyzing therapeutic class rather than specific diagnosis. Representative Merchant asked Robert Woodward to follow up with the Board with a public payor PBM analysis.

NEXT MEETINGS: May 1, 2023, 10:00 AM and June 10, 2023, 10:00 AM.

PUBLIC COMMENTS: Donald Pfundstein discussed a letter, on behalf of AHIP, he had sent to Board members on Thursday March 30. It was in regards to RSA 126-BB:8, II which provides in pertinent part: "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." He asked that Nancy Plourde post the letter to the PDAB web page.

Representative Jess Edwards stated he feels the Board is trying to get outside of the scope of their statutory requirements/limitations. Feels that the Board is trying to regulate, without being transparent about it, the number of PBMs the state utilizes for public payors. Spoke to the legislative history of the Board statute, mentioning that is skipped Finance and Ways and Means. He spoke about the idea of changing the path of reaction in the House to the statute to proposing the change in the funding mechanism, and taking the issue of unconstitutionality. He spoke about Representative Lynn, and that he feels he understands that HB 2 has the power to change law, and feels he can get a statement from him on the topic. HE spoke about House Finance passing HB 2 and noted that PDAB was not a negotiating point, as it wasn't the only thing on the bill. HE stated he feels that this Board is the least accountable and the most powerful entity in NH government. He stated AHIP correctly recognizes it. He reiterated the benefit of waiving the fees. He wanted to make sure that it is reflected in the comments section of these minutes that he does believe in the fundamental vision of the Board and feels that the work of the Board is powerful and important.

ADJOURNMENT: Representative Merchant made an undebatable motion to adjourn.

Todd Fahey, Clerk, respectfully submitted.

Nancy T. Plourde, Recording Secretary