

FMaine Prescription Drug Affordability Board
Monday, February 23rd @ 11:00 am
Microsoft TEAMS Meeting
In Person Location: 109 Capitol St, Augusta Maine, 04330

Board Members in Attendance: Kelsie Snow, Jennifer Reck, Sharon Treat, Lisa Nolan, Susan Wehry, Rhonda Selvin, Noah Nesin
 (Total = 7)

Board Members Absent:
 Vacant Seat(s): 1

Others Present:

Advisory Council: Kate Ende, Jonathan French, Robert Payne, Dan Mickool, Shonna Poulin-Gutierrez, Jennifer Kent

OAHC: Meg Garratt-Reed, Ceilidh Shea, Katherine Senechal

All Others: Andy Berg, Nancy Le, Nimesh Patel, Hannah Hudson, Miranda Ryzenman, Jenna Doerr, Martha Auster, Cody Austin, Caitlin Ozier, Kristine Ossenfort, Rachel Cottle Latham, Anthony Madorma, Olivia Backhaus, Bren Moreno

Agenda Item:	Discussion:	Action/Next Steps:
I. Call to Order	Kelsie Snow called the meeting to order.	
II. Introductions	Board members were introduced.	
III. Approval of the Minutes (January 26, 2026)	There were no changes to the minutes discussed.	Sharon Treat made a motion to approve the minutes. Susan Wehry seconded the motion.
IV. Administrative Update	Meg Garratt-Reed said that the meeting would be focused on PBMs and that Ceilidh Shea had circulated a draft schedule for 2026, assigning certain priorities to certain meetings, while also aiming to leave some room for flexibility depending on what comes out throughout those meetings focused on specific topics. She said that she knows there is a desire to make sure there is time for open discussion, so she suggested that Ceilidh Shea move through slides quickly, given the delayed start to the meeting due to weather and scheduling concerns. She asked whether that plan	

made sense to members or whether they prefer to spend more time on education.

Susan Wehry said she preferred the first option.

Kelsie Snow and Rhonda Selvin agreed.

Ceilidh Shea touched briefly on the first slide of the presentation, related to the MPDAB bill tracker. She said there are not major updates on any of the pieces of legislation the Board is tracking but that if there are any substantial changes she would share that information with the Board. She then provided an overview of the tentative 2026 schedule.

Ceilidh Shea said that, by way of background, should a refresher be helpful, PBMs are companies that are contracted by carriers to large employers to manage their prescription drug benefits. There has been a lot of interest in increasing transparency into how they derive revenue. She also touched on some Federal Trade Commission reports that have focused on PBM business practices, which she shared with the Board via email prior to the meeting. She recommended they review those reports between the February and March meetings.

Ceilidh Shea said that On February 3, 2026, Congress passed the Consolidated Appropriations Act, 2026. The legislation includes an extensive package of PBM reforms that aim to reshape PBM operations across the commercial market and Medicare Part D beginning in 2028–2029. The commercial reforms require 100% pass through of rebates to carriers on a quarterly basis. She also noted that the bill also requires PBMs to fully disclose all rebates to their plan clients. She said that at least once per plan year, PBMs are required to make rebate records, including rebate contracts, available to their plan clients for audit. Ceilidh Shea said that she would be happy to follow up with members should they be interested in more information related to Medicare Part D reforms. Ceilidh Shea said that the conversation for the rest of the meeting has been framed in part using a National Academy of State Health

Policy's (NASHP) state legislation tracker related to PBMs, which covers legislation passed from 2017 to 2024, although she noted that she had updated the tracker to reflect changes in Maine in 2025. She said this tracker provides a decent overview of where Maine is at in comparison to other states. She said she would review the laws quickly for the purpose of maintaining time for discussion at the end of the call. Ceilidh Shea said that Maine law prohibits gag clauses imposed on pharmacies by PBMs and that the state has quite a few laws targeting limiting patient cost sharing, whether that be by requiring rebates be passed through to carriers and used to lower costs for consumers or by ensuring assistance programs are counted towards out of pocket maximums and deductibles.

Ceilidh Shea said that Maine has a law requiring the use of a single Maximum Allowable Cost list to avoid spread pricing. She said there is also a law that prohibits claw backs and a law that requires or clarifies that PBMs have a fiduciary duty to their contracted carrier. She shared that there is legislation that passed that prohibits discrimination against non-affiliated pharmacies and that there was also a bill that passed last session that outright bans spread pricing.

Ceilidh Shea said that continuing on in Maine, there is also a law on the books, passed last year, that creates requirements that allow for plan sponsors to more regularly audit PBMs. She said Maine also has a law that prohibits discrimination against 340B covered entities, which the Board heard about from multiple organizations during one of their meetings last year. She said that in Maine PBMs are required to report rebates and other information to the state and that the Board has heard previous presentations of that data from the Maine Health Data Organization. She said that the last one to note is a law that requires PBMs share rebate information with health plans.

Ceilidh Shea said that based on the NASHP tracker and the categories of legislation it includes, there are three gaps in Maine. Firstly, Maine does not have a law establishing particular

reimbursement requirements. This could look like allowing a Medicaid department to change reimbursement rates between a PBM and contracted pharmacy. It might also look like prohibiting a PBM from paying a pharmacy for a drug at an amount less than a certain threshold, such as NADAC or WAC. She noted that there was a bill last session, LD 180, that originally included language tying reimbursement to NADAC, although that language was replaced entirely, so this is an issue or policy idea that has come before the legislature quite recently.

Ceilidh Shea said that the second gap in Maine's regulatory environment is related to establishing pharmacy networks. She said that this targets some concerns Board members have voiced related to vertical integration in the PBM space. She said some of these laws might look like prohibiting PBMs from restricting networks only to their affiliated pharmacies or requiring enrollees to use mail order pharmacies. Other examples include establishing network adequacy requirements for PBM pharmacy networks.

Ceilidh Shea said that the third gap based on the NASHP legislation tracker is related to regulating a PBM's audit of a pharmacy. She said this might look like requiring a PBM give advance notice to a pharmacy before an audit is conducted or requiring that all pharmacies, whether they are affiliated with the PBM or not, are audited using the same standards. She noted that in Maine, PBMs are required to give pharmacies a ten-day notice prior to conducting an audit, however other states have implemented more stringent requirements.

Ceilidh Shea said that in the January meeting, when Board members discussed their priorities for work in 2026, the issue of vertical integration and consolidation was raised, particularly in the context of aligning carve out fees with actual administrative cost in order to encourage employers to contract with more transparent, pass through PBMs. She said another top line was enforcement of existing regulations in Maine, particularly related to spread pricing. Board members also raised independent pharmacy access and dispensing rules, along with upfront DIR claw backs in the

commercial market and the potential reporting of those claw backs to MHDO.

Sharon Treat said she was struck by the FTC reports that Ceilidh Shea shared with the Board. She said that she thought she knew a lot about PBMs because she had sponsored legislation back in 2004 to regulate the and do the fiduciary duty part. It has gotten way worse. She said one of the lessons she took away from the FTC reports is that these companies are able to sort of morph into ways that allow them to evade the regulations that people have come up with. For example, they have rebate aggregators located in the Cayman Islands, which is concerning. Sharon Treat said that when looking at this presentation and the long list of regulations passed here in Maine, one might think we have covered the waterfront, but on the other hand it appears that these companies are able to evade a lot of them. She said she believes this is a very productive area for them to focus on moving forwards, but in regard to doing that, it would be beneficial to look at all of Maine's rules and regulations and try to better understand how they interact with one another. She said she is not clear on who can enforce what. Other states, like Arkansas, have entire sections of their AG's office dedicated to PBMs and enforcement of PBM regulation. Maine does not have that. She said that she is not clear on who enforces what provisions, because the enforcement is critical. Sharon Treat said that when the original PBM law was passed in 2000 it was part of the Unfair Trade Practice Act. It had a private right of action as well as the AG being able to enforce damages for violations. She said that's not part of the law now, as far as she knows, and she is not clear, on the provisions presented today, who can enforce what. She said that at the next meeting she would like to get a much better understanding of that, because that is a place where the Board can make a difference.

Jennifer Reck agreed with Sharon Treat's point the importance of the enforcement angle. She said Oklahoma is another example of a state that has heavily invested in litigation against PBMs that aren't following Oklahoma law. She added that a piece of Consolidated Appropriations Act that only applies to Medicare Part

D, concerns linking how PBMs are reimbursed and delinking the revenue model from rebates and formulary structures to try and remove some of those incentives that really don't work very well. That has not been enacted in Medicare Part D on the federal level and Colorado has enacted that at the state level as well. She suggested that might be a newer development in state regulations around PBMs that the Board may also want to consider.

Noah Nesin said that Sharon Treat hit exactly on what his concerns are, related to enforcement. His concerns also revolve around capacity for enforcement. What capacity does Maine have for auditing compliance of regulations? And overall, how effective can a state be at regulating PBMs, given the resources those PBMs have?

Meg Garratt-Reed said that there are a few things the Office can do in preparation for the next meeting in regard to enforcement. The Office could look at what is in state law and enforcement structures and create some sort of table or summary of that information. She said the Office may reach out to Jennifer Reck in her capacity at NASHP, potentially for some assistance with collecting this information as it related to other states. Meg Garratt-Reed said that a big challenge of all of this is fragmentation, but also resources for enforcement. She said she has been thinking about how these new federal provisions and how much bleed over there might be.

Lisa Nolan said that she agrees with what other Board members have said in regards to enforcement. She said she was very excited to see that federal legislation passed, but on the flip side, there didn't appear to be any change in any of the PBMs stock prices or anything in the days following that. To Sharon Treat's point, there are lots of ways they can work within some of these new requirements, based on their ability to outmaneuver what's already been placed in statute. She said that one issue on the federal level is the issue of ERISA coverage. It refers to ERISA plans, which exempt a lot of the state and partially government funded plans line in Maine, such as municipalities, the state

employee health plan, the university system, etc. would not be covered by that. They would remain covered by state law. Lisa Nolan said that there does appear to be some effort to work within ERISA prohibitions at the state level to put some requirements on carriers as opposed to employers in a way that may allow some of those requirements apply more broadly, not just to the fully insured market. She said that the fully insured market is really only going to be a small fraction of all commercial plans. She said the other thing she wanted to circle back to in regards to her comments from the last meeting, was the vertical integration piece. Lisa Nolan said that it would be helpful all around for patients, particularly in terms of pricing, if vertical integration were to be addressed. She said that if there is any way to ensure that affiliated pharmacies don't always have a death grip on some of the drugs that generate the more income for them, the extent to which independent local pharmacies are able to fill those would be helpful. She said a lot of this can be helped if you limit where PBMs earn their revenue.

Sharon Treat said Lisa Nolan's comments reminded her of some other things that she took away from the FTC reports. She highlighted unbelievable overpricing for specialty drugs at affiliated pharmacies. She said she was taken aback that there is no definition of specialty drugs, so they charge a high rate or have different rules around that. Sharon Treat said she wanted to flag that as an interesting thing. Maybe there should be a definition of specialty drugs. It's just one way they are gaming things.

Kelsie Snow said she loves that idea. She said that as a dispensing pharmacist, she provides long-acting injections to treat opioid use disorder and it is frustrating because she works with a lot of small offices to provide them these injections, and that a lot of headaches. She said she would be open to conversations about options to make things easier and remove some of the barriers for patients and keep some of these independent pharmacies open that have been shown to provide excellent care.

Lisa Nolan said that she is not sure whether this is in the purview of the Board, but some of these issues can be addressed through contracting. If you have an employer who is savvy about some of these games that PBMs play and they're a big enough employer, there are ways when you are contracting to make sure definitions are tight. Addressing some of these things does not necessarily address the problem at large, but sharing some of these issues and potential contract fixes for employers can have some impact.

Meg Garratt-Reed asked Board members whether they would like the Office to look into network adequacy laws for the next meeting.

Susan Wehry said that there is one piece of clarifying data that she would appreciate seeing. There was a reference somewhere that we've had a closure of a number of rural independent pharmacies. She asked for that to be contextualized, such as the number of pharmacies that have closed over a certain period of time.

Meg Garratt-Reed said that the Office would look into that, although it may be difficult to find a comprehensive data source. She said the Office may be able to check with the Board of Pharmacy to see if they have any relevant data.

Lisa Nolan said that testimony on LD 1580 from various stakeholders last year may include some reference to rural independent pharmacy closures.

Kelsie Snow said she has quite a lot of information she could share related to pharmacy closures.

Susan Wehry said that to Lisa Nolan's point about testimony, she is beginning to think about what would make compelling arguments before the Legislature.

Lisa Nolan asked Kelsie Snow whether she had any information related to DIR claw backs and whether the law that passed in 2020 addressed the claw back issue for pharmacies in Maine under commercial reimbursement.

Meg Garratt-Reed said she did not off the top of her head but that the Office could chat with MHDO.

Meg Garratt-Reed asked if any members of the Advisory Council had input related to bills passed thus far or the landscape in general.

Kate Ende said that Consumers for Affordable Health Care often hears from consumers calling their helpline, about having to use specialty pharmacies. Given the access issues created by lack of ability to fill prescriptions in local communities, looking at network adequacy policies would be interesting, including what other states have done.

Jennifer Kent said that in response to Lisa Nolan's comment about addressing PBM issues through contracting, there is a state work group that pulls together model contract language and she would be happy to help connect the Board to those efforts.

Meg Garratt-Reed thanked Kate Ende and Jennifer Kent, adding that it is really up to the Board. Certainly, given the structure of LD 697 and the charge of the Board to come back to the legislature with recommendations, the Board has been more focused on regulatory solutions, but that doesn't necessarily preclude the Board, if there are other ways to advance those concepts or voice support for them. She said she is happy to make that a part of the conversation as well, though given the statute and directive, the Board has been a bit more focused on government intervention opportunities.

Sharon Treat said she again, was struck by the FTC reports, which showed the dramatic differences in the cost to consumers from affiliated pharmacies and unaffiliated pharmacies, particularly for cancer drugs and other things. She asked whether we had any data on that in Maine. There are huge price discrepancies when someone is required to go to a specific pharmacy.

Meg Garratt-Reed said that she could check with MHDO about what is possible from a more aggregate data analysis approach or just related to what already exists.

Susan Wehry said she was also struck by the FTC reports detailing growth in revenue from generic specialty generic drugs, which are often marked up 1,000%. She said her question is related to spread pricing and whether there have been any enforcement actions over the last six or so years. She expressed interest in learning more about who can enforce what at the next meeting.

Meg Garratt-Reed said the Office would include that information in the next meeting, but that spread pricing in particular is in the Bureau's purview, in some ways related to licensure, so the Office would see what information is available.

Ceilidh Shea added that it may be helpful to have a representative from the Bureau present at the next meeting to potentially bring back some more information.

Lisa Nolan said that LD 1580 is really the bill that tackled spread pricing and that the 2019 legislation may not have had a huge impact. She said that while the Consolidated Appropriations Act did not ban spread pricing in the commercial market, there were some transparency requirements included, so it will be helpful to see some more data on cost to consumers on the specialty side of things. In some instances, depending on how the plan is put together, the consumer cost may not be any different depending on their co-pay etc, but the plan may be paying a ton more than the consumer. If there were at an affiliated pharmacy, a drug may cost \$1,000 but at a non-affiliated pharmacy it might be \$500, but the co-pay or coinsurance may be the same, so if the Board is going to look at costs it's important to consider not only cost to the consumer but to employers as well. She added that some plans in Maine are using PBMs that have no spread pricing as part of their contract, typically for self-insured plans, who wouldn't be covered by LD 1580, however maybe some of them are willing to talk about their experience in moving to contracts with no spread

pricing and where their PBM is funded solely based on a PMPM or per script admin fee.

Meg Garratt-Reed said that she believes the State Employee Health Plan recently moved to a similar model. While the Board has discussed it in brief, it could be interesting to explore the different contracts and strategies employed by different public purchasers to keep costs down.

Rhonda Selvin said she is thinking about the power of story and how complicated this can be to translate to the general public, patients, or even the legislature. She said it is important to accept that communicating is a large part of this process and it could be beneficial to begin thinking about ways to do that.

Ceilidh Shea said that it is her understanding that there are a couple of PDABs in other states working on centering consumer voices for their process of determining affordability standards for certain drugs or their larger assessment of strategies. She said that LD 697 includes a report back to the legislature and that consumer voices are certainly something that can be incorporated into that report.

Meg Garratt-Reed said she completely agrees with the importance of highlighting human impact. She said that maybe for legislators and others, she was thinking that the Board may want to move to a place where there is a sense of an outlines of police and then begin considering how to incorporate stories into campaigns on those bills. She said the right order may be to first identify priorities and from there, begin working the consumer narrative into how the Board communicates and thinks about steps forward. Meg Garratt-Reed said that the schedule Ceilidh Shea shared, based on Board member priorities, could allow for some room for the Board to open meetings up, periodically throughout the year, to public input. She also mentioned that the Office has an annual public hearing that presents an opportunity to hear more public input. She said it would be a good idea to think about the right way to solicit and allow time for a wide range of stakeholder input.

Sharon Treat said that the FTC report had a couple of case studies of particular drugs and if the Board started looking at pricing, it would also be a good idea to think about something similar to help illustrate just how expensive these drugs are. She said it feels too early to solicit public input, however, as the Board moves through these discussions, it might be interesting to come up with some specific questions for the public to respond to make sure the Board gets the most useful information as possible from the public.

Meg Garratt-Reed said that having questions when opening things up for public input can be really helpful in finding ways for those opportunities to be relevant to the Board.

Lisa Nolan said she agrees with Rhonda Selvin and Sharon Treat about the importance of stories, particularly in front of the legislature, however these are such complex issues and when folks get up to testify with three minutes, legislators can struggle when they don't have the full context. She said that the Board will be interacting with a whole new committee next year who will not have had the experience of working on some of these more recent bills. She said that is why it seems like a particularly good idea to have someone from this group do an orientation presentation to the committee when the next session begins.

Meg Garratt-Reed said that the Office can help with scheduling those meetings. She said that the Office has a clear sense of what information would be helpful for the next meeting and that Ceilidh Shea would circulate those materials a week in advance, so members have some time with them.

Kelsie Snow thanked the Office for their flexibility in meeting on a snow day.

Susan Wehry asked Kelsie Snow whether she had had the chance to write thank you notes to part members of the Board.

Kelsie Snow said she had come up with a few options that she will have ready to go at the next meeting. She said members who are

	at the next meeting in person can sign the cards and virtual attendees and co-sign. Susan Wehry thanked Kelsie Snow.	
VII. Open Discussion		
VIII. Adjourn	Sharon Treat made a motion to adjourn. Suan Whey seconded the motion.	

Next meeting: March 23, 2026