



## 104TH GENERAL ASSEMBLY

### State of Illinois

2025 and 2026

HB1443

Introduced 1/28/2025, by Rep. Nabeela Syed

#### SYNOPSIS AS INTRODUCED:

New Act  
30 ILCS 105/5.1030 new

Creates the Health Care Availability and Access Board Act. Establishes the Health Care Availability and Access Board to protect State residents, State and local governments, commercial health plans, health care providers, pharmacies licensed in the State, and other stakeholders within the health care system from the high costs of prescription drug products. Contains provisions concerning Board membership and terms; staff for the Board; Board meetings; circumstances under which Board members must recuse themselves; and other matters. Provides that the Board shall perform the following actions in open session: (i) deliberations on whether to subject a prescription drug product to a cost review; and (ii) any vote on whether to impose an upper payment limit on purchases, payments, and payor reimbursements of prescription drug products in the State. Permits the Board to adopt rules to implement the Act and to enter into a contract with a qualified, independent third party for any service necessary to carry out the powers and duties of the Board. Creates the Health Care Availability and Access Stakeholder Council to provide stakeholder input to assist the Board in making decisions as required by the Act. Contains provisions concerning Council membership, member terms, and other matters. Provides that the Board shall adopt the federal Medicare Maximum Fair Price as the upper payment limit for a prescription drug product intended for use by individuals in the State. Prohibits the Board from creating an upper payment limit that is different from the Medicare Maximum Fair Price for the prescription drug product that has a Medicare Maximum Fair Price. Requires the Board to implement an upper payment limit that is the same as the Medicare Maximum Fair Price no sooner than the Medicare implementation date. Provides that Medicare Part C and D plans are not required to reimburse at the upper payment limit. Provides that the Attorney General may enforce the Act and may pursue any available remedy under State law when enforcing the Act. Effective 180 days after becoming law.

LRB104 06394 BAB 16430 b

A BILL FOR

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Health  
5 Care Availability and Access Board Act.

6 Section 5. Definitions. In this Act:

7 "Biologic" means a drug that is produced or distributed in  
8 accordance with a biologics license application approved under  
9 42 U.S.C. 262(k)(3).

10 "Biosimilar" means a drug that is produced or distributed  
11 in accordance with a biologics license application approved  
12 under 42 U.S.C. 262(k)(3).

13 "Board" means the Health Care Availability and Access  
14 Board.

15 "Brand name drug" means a drug that is produced or  
16 distributed in accordance with an original new drug  
17 application approved under 21 U.S.C. 355(c). "Brand name drug"  
18 does not include an authorized generic drug as defined by 42  
19 CFR 447.502.

20 "Council" means the Health Care Availability and Access  
21 Stakeholder Council.

22 "Generic drug" means:

23 (1) a retail drug that is marketed or distributed in

1           accordance with an abbreviated new drug application,  
2           approved under 21 U.S.C. 355(j);

3           (2) an authorized generic drug as defined by 42 CFR  
4           447.502; or

5           (3) a drug that entered the market before 1962 that  
6           was not originally marketed under a new drug application.

7           "Manufacturer" means an entity that:

8           (1) owns the patent to a prescription drug product; or

9           (2) enters into a lease with another manufacturer to  
10          market and distribute a prescription drug product under  
11          the entity's own name;

12          (3) is the labeled entity of the generic product at  
13          the point of manufacture; and

14          (4) sets or changes the wholesale acquisition cost of  
15          the prescription drug product it manufactures or markets.

16          "Prescription drug product" means a brand name drug, a  
17          generic drug, a biologic, or a biosimilar.

18          Section 10. Health Care Availability and Access Board.

19          (a) There is established a Health Care Availability and  
20          Access Board. The purpose of the Board is to protect State  
21          residents, State and local governments, commercial health  
22          plans, health care providers, pharmacies licensed in the  
23          State, and other stakeholders within the health care system  
24          from the high costs of prescription drug products. The Board  
25          is a public body and is an instrumentality of the State. The

1 Board is an independent unit of State government. The exercise  
2 by the Board of its authority under this Act is an essential  
3 function.

4 (b) (1) The 5 members of the Board and 3 alternate members  
5 shall be appointed by the Governor with the advice and consent  
6 of the Senate.

7 (2) The Board membership must include individuals with  
8 demonstrated expertise in health care economics,  
9 pharmaceutical markets, and clinical medicine. A member or an  
10 alternate member may not be an employee of, a Board member of,  
11 or a consultant to a manufacturer or trade association for  
12 manufacturers.

13 (3) Any conflict of interest, including whether the  
14 individual has an association, including a financial or  
15 personal association, that has the potential to bias or has  
16 the appearance of biasing an individual's decision in matters  
17 related to the Board or the conduct of the Board's activities,  
18 shall be considered and disclosed when appointing members and  
19 alternate members to the Board.

20 (c) The term of a member or an alternate member is 5 years,  
21 except that the terms of the initial members and alternate  
22 members shall be staggered as required by the terms provided  
23 for members in Section 55. Board members shall be appointed  
24 within 90 days after the effective date of this Act. The Board  
25 may begin its work regardless of a delay in appointments to the  
26 Health Care Availability and Access Stakeholder Council

1 created under Section 20.

2 (d) The Chair shall hire an executive director, general  
3 counsel, and staff for the Board. Staff of the Board shall  
4 receive a salary as provided in the budget of the Board. A  
5 member of the Board: (i) may receive compensation as a member  
6 of the Board; and (ii) is entitled to reimbursement for  
7 expenses.

8 (e) A majority of the members of the Board shall  
9 constitute a quorum for the purposes of conducting the  
10 business of the Board.

11 (f) Subject to the requirements of this subsection, the  
12 Board shall meet in open session at least 4 times per year to  
13 review prescription drug product information. Information  
14 concerning the location, date, and time of the meeting must be  
15 made publicly available in accordance with the Open Meetings  
16 Act. The Chair may cancel or postpone a meeting if there is no  
17 business to conduct.

18 The Board shall perform the following actions in open  
19 session: (i) deliberations on whether to subject a  
20 prescription drug product to a cost review under subsection  
21 (f) of Section 25; and (ii) any vote on whether to impose an  
22 upper payment limit on purchases, payments, and payor  
23 reimbursements of prescription drug products in the State. The  
24 Board may otherwise meet in closed session to discuss  
25 proprietary data and information.

26 The Board shall provide public notice of each Board

1 meeting at least 3 weeks in advance of the meeting. Materials  
2 for each Board meeting shall be made available to the public at  
3 least 3 weeks in advance of the meeting. The Board shall  
4 provide an opportunity for public comment at each open meeting  
5 of the Board. The Board shall provide the public with the  
6 opportunity to provide written comments on pending decisions  
7 of the Board. The Board may allow expert testimony at Board  
8 meetings, including when the Board meets in closed session.

9 (g) (1) Members of the Board shall recuse themselves from  
10 decisions related to a prescription drug product if the  
11 member, or an immediate family member of the member, has  
12 received or could receive any of the following:

13 (A) a direct financial benefit of any amount deriving  
14 from the result or finding of a study or determination by  
15 or for the Board; or

16 (B) a financial benefit from any person who owns,  
17 manufactures, or provides prescription drug products,  
18 services, or items to be studied by the Board that in the  
19 aggregate exceeds \$5,000 per year.

20 As used in this paragraph, "financial benefit" includes  
21 honoraria, fees, stock, the value of the member's or immediate  
22 family member's stock holdings, and any direct financial  
23 benefit deriving from the finding of a review conducted under  
24 this Act.

25 (2) A disclosure of interests under this Section shall  
26 include the type, nature, and magnitude of the interests of

1 the member or his or her immediate family member involved.

2 (3) A conflict of interest shall be disclosed in advance  
3 of the first open meeting after the conflict is identified or  
4 within 5 days after the conflict is identified. A conflict of  
5 interest shall be disclosed by:

6 (A) the Board when hiring Board staff;

7 (B) the appointing authority when appointing members  
8 and alternate members to the Board and members to the  
9 Council; and

10 (C) the Board when a member of the Board is recused in  
11 any final decision resulting from a review of a  
12 prescription drug product.

13 (4) A conflict of interest disclosed under this Section  
14 shall be posted on the website of the Board unless the Chair of  
15 the Board recuses the member from any final decision resulting  
16 from a review of a prescription drug product.

17 (5) Members and alternate members of the Board, Board  
18 staff, and third-party contractors may not accept any gift or  
19 donation of services or property that indicates a potential  
20 conflict of interest or has the appearance of biasing the work  
21 of the Board.

22 Section 15. Powers and duties of the Board. In addition to  
23 the powers set forth elsewhere in this Act, the Board may:

24 (1) adopt rules for the implementation of this Act;  
25 and

1           (2) enter into a contract with a qualified,  
2           independent third party for any service necessary to carry  
3           out the powers and duties of the Board.

4           Unless permission is granted by the Board, a third party  
5           hired by the Board may not release, publish, or otherwise use  
6           any information to which the third party has access under its  
7           contract.

8           Section 20. Health Care Availability and Access  
9           Stakeholder Council.

10          (a) The Health Care Availability and Access Stakeholder  
11          Council is created. The purpose of the Council is to provide  
12          stakeholder input to assist the Board in making decisions as  
13          required under this Act. The Council consists of 15 members  
14          appointed within 90 days after the effective date of this Act  
15          as follows:

16                (1) 3 members appointed by the Speaker of the House of  
17                Representatives;

18                (2) 2 members appointed by the Minority Leader of the  
19                House of Representatives;

20                (3) 3 members appointed by the President of the  
21                Senate;

22                (4) 2 members appointed by the Minority Leader of the  
23                Senate; and

24                (5) 5 members appointed by the Governor.

25          (b) The members of the Council shall have knowledge in one



1 or more of the following:

- 2 (1) the pharmaceutical business model;
- 3 (2) supply chain business models;
- 4 (3) the practice of medicine or clinical training;
- 5 (4) consumer or patient perspectives;
- 6 (5) clinical and health services research; or
- 7 (6) the State's health care marketplace.

8 (c) From among the membership of the Council, the Board  
9 Chair shall appoint one member to be Council Chair.

10 (d) The term of a member is 3 years, except that the  
11 initial members of the Council shall serve staggered terms as  
12 required by the terms provided for members in Section 55.

13 (e) A member of the Council may not receive compensation  
14 as a member of the Council, but is entitled to reimbursement  
15 for travel expenses.

16 Section 25. Drug cost affordability review.

17 (a) The Board shall limit its review of prescription drug  
18 products to those that are:

19 (1) brand name drugs or biologics that, as adjusted  
20 annually for inflation in accordance with the Consumer  
21 Price Index, have:

22 (A) a wholesale acquisition cost of \$60,000 or  
23 more per year or course of treatment if less than a  
24 year; or

25 (B) a wholesale acquisition cost increase of

1           \$3,000 or more in any 12-month period;

2           (2) biosimilar drugs that have a wholesale acquisition  
3           cost that is not at least 20% lower than the referenced  
4           brand biologic at the time the biosimilars are launched,  
5           and that have been suggested for review by the members of  
6           public, medical professionals, and other stakeholders;

7           (3) generic drugs that, as adjusted annually for  
8           inflation in accordance with the Consumer Price Index,  
9           have a wholesale acquisition cost of at least \$100 for a  
10          30-day supply or course of treatment less than 30 days and  
11          which increased by 200% or more during the immediately  
12          preceding 12-month period, as determined by the difference  
13          between the resulting wholesale acquisition cost and the  
14          average of the wholesale acquisition cost reported over  
15          the immediately preceding 12 months; and

16          (4) other prescription drug products that may create  
17          affordability challenges for the State health care system  
18          or patients, including, but not limited to, drugs to  
19          address public health emergencies.

20          The Board is not required to identify every prescription  
21          drug that meets the criteria of this subsection.

22          (b) The Board shall solicit public input on prescription  
23          drugs thought to be creating affordability challenges that  
24          meet the parameters of paragraphs (1) through (4) of  
25          subsection (a). The Board shall determine whether to conduct a  
26          full affordability review for the proposed prescription drugs

1 after compiling preliminary information about the cost of the  
2 product, patient cost sharing for the product, health plan  
3 spending on the product, stakeholder input, and other  
4 information decided by the Board.

5 (c) If the Board conducts a review of the cost and  
6 affordability of a prescription drug product, the review shall  
7 determine whether use of the prescription drug product that is  
8 fully consistent with the labeling approved by the United  
9 States Food and Drug Administration or standard medical  
10 practice has led or will lead to affordability challenges for  
11 the State health care system or high out-of-pocket costs for  
12 patients.

13 (d) The information to conduct an affordability review may  
14 include, but is not limited to, any document and research  
15 related to the manufacturer's selection of the introductory  
16 price or price increase of the prescription drug product,  
17 patient assistance program or programs specific to the  
18 product, estimated or actual manufacturer product price  
19 concessions in the market, net product cost to State payers,  
20 and other information as determined by the Board.

21 (e) Failure of a manufacturer to provide the Board with  
22 the information for an affordability review does not affect  
23 the authority of the Board to conduct such a review.

24 (f) If the Board finds that the spending on a prescription  
25 drug product reviewed under this Section has led or will lead  
26 to an affordability challenge, the Board shall establish an

1 upper payment limit considering exceptional administrative  
2 costs related to the distribution of the drug in the State.

3 (g) The upper payment limit applies to all purchases and  
4 payor reimbursements of the prescription drug product intended  
5 for use by individuals in the State, in person, by mail, or by  
6 other means.

7 (h) Any information submitted to the Board in accordance  
8 with this Section shall be subject to public inspection only  
9 to the extent allowed under the Freedom of Information Act.

10 (i) This Section may not be construed to prevent a  
11 manufacturer from marketing a prescription drug product  
12 approved by the United States Food and Drug Administration  
13 while the product is under review by the Board.

14 Section 30. Protections and other Board considerations.

15 (a) The Board shall examine how an upper payment limit  
16 would affect a covered entity, as that term is defined in  
17 Section 340B of the federal Public Health Service Act.

18 (b) In determining whether a drug creates an affordability  
19 challenge or determining an upper payment limit amount, the  
20 Board may not use cost-effectiveness analyses that include the  
21 cost-per-quality adjusted life year or a similar measure to  
22 identify subpopulations for which a treatment would be less  
23 cost-effective due to severity of illness, age, or preexisting  
24 disability. In addition, for any treatment that extends life,  
25 if the Board uses cost-effectiveness results, the Board must

1 use results that weigh the value of all additional lifetime  
2 gained equally for all patients no matter their severity of  
3 illness, age, or preexisting disability.

4 (c) An upper payment limit is effective no sooner than 6  
5 months after it has been announced.

6 (d) State-regulated health plans shall inform the Board of  
7 how any upper payment limit-related cost savings are directed  
8 to the benefit of enrollees, with a priority on enrollee cost  
9 sharing.

10 (e) The upper payment limit shall not be inclusive of the  
11 pharmacy dispensing fee or provider administration fee.

12 (f) State licensed independent pharmacies may not be  
13 reimbursed less than the upper payment limit.

14 (g) The Board shall adopt the Medicare Maximum Fair Price  
15 as defined in 42 U.S.C. 1320f(c)(3) for a prescription drug as  
16 the upper payment limit for that prescription drug product  
17 intended for use by individuals in this State, per subsection  
18 (g) of Section 25.

19 (h) The Board shall not create an upper payment limit that  
20 is different from the Medicare Maximum Fair Price for the  
21 prescription drug product that has a Medicare Maximum Fair  
22 Price.

23 (i) The Board shall implement an upper payment limit that  
24 is the same as the Medicare Maximum Fair Price no sooner than  
25 the Medicare implementation date.

26 (j) Medicare Part C and D plans are not required to

1 reimburse at the upper payment limit.

2 Section 35. Remedies. The Attorney General may enforce  
3 this Act. The Attorney General may pursue any available remedy  
4 under State law when enforcing this Act.

5 Section 40. Appeal of Board decisions.

6 (a) A person aggrieved by a decision of the Board may  
7 request an appeal of the decision within 30 days after the  
8 finding of the Board.

9 (b) The Board shall hear the appeal and make a final  
10 decision within 60 days after the appeal is requested.

11 (c) Any person aggrieved by a final decision of the Board  
12 may petition for judicial review in accordance with the  
13 provisions of the Administrative Review Law.

14 Section 45. Health Care Availability and Access Board  
15 Fund. The Health Care Availability and Access Board Fund is  
16 created as a special fund in the State treasury. The Board  
17 shall be funded by an annual assessment on all manufacturers  
18 whose products are sold in the State. All funds collected by  
19 the Board from the assessments shall be deposited into the  
20 Fund. The Fund shall be used only to provide funding for the  
21 Board and for the purposes authorized under this Act,  
22 including any costs expended by any State agency to implement  
23 this Act. All interest earned on moneys in the Fund shall be

1 credited to the Fund. This Section may not be construed to  
2 prohibit the Fund from receiving moneys from any other source  
3 that does not create the appearance of a conflict of interest.  
4 The Board shall be established using general funds, which  
5 shall be repaid to the State with the assessments required  
6 under this Section.

7 Section 50. Reports.

8 (a) On or before December 31 of each year, the Board shall  
9 submit to the General Assembly a report that includes:

- 10 (1) price trends for prescription drug products;  
11 (2) the number of prescription drug products that were  
12 subject to Board review, including the results of the  
13 review and the number and disposition of appeals and  
14 judicial reviews of Board decisions; and  
15 (3) any recommendations the Board may have on further  
16 legislation needed to make prescription drug products more  
17 affordable in this State.

18 (b) On or before June 1, 2025, the Health Care  
19 Availability and Access Board shall submit a report to the  
20 General Assembly about the operation of the generic drug  
21 market in the United States that includes a review of  
22 physician-administered drugs and considers:

- 23 (1) the prices of generic drugs on a year-over-year  
24 basis;  
25 (2) the degree to which generic drug prices affect

1 insurance premiums as reported by health insurers in this  
2 State or other states that collect this information;

3 (3) recent and current trends in patient cost sharing  
4 for generic drugs;

5 (4) the causes and prevalence of generic drug  
6 shortages; and

7 (5) any other relevant study questions.

8 Section 55. Term expiration.

9 (a) The terms of the initial members and alternate members  
10 of the Health Care Availability and Access Board shall expire  
11 as follows:

12 (1) one member and one alternate member in 2029;

13 (2) 2 members and one alternate member in 2030; and

14 (3) 2 members, including the Chair of the Board, and  
15 one alternate member in 2031.

16 (b) The terms of the initial members of the Health Care  
17 Availability and Access Stakeholder Council shall expire as  
18 follows:

19 (1) 5 members in 2029;

20 (2) 5 members in 2030; and

21 (3) 5 members in 2031.

22 Section 97. Severability. If any provision of this Act or  
23 the application thereof to any person or circumstance is held  
24 invalid for any reason in a court of competent jurisdiction,



1 the invalidity does not affect other provisions or any other  
2 application of this Act that can be given effect without the  
3 invalid provision or application, and for this purpose the  
4 provisions of this Act are declared severable.

5 Section 900. The State Finance Act is amended by adding  
6 Section 5.1030 as follows:

7 (30 ILCS 105/5.1030 new)

8 Sec. 5.1030. The Health Care Availability and Access Board  
9 Fund.

10 Section 999. Effective date. This Act takes effect 180  
11 days after becoming law.