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# Drug Pricing Policy Solutions

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## Prescription Drug Affordability Review Boards



Missouri Foundation  
for Health

Written by Anam Khan, JD, MPH  
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# Drug Pricing Policy Solutions: Prescription Drug Affordability Review Boards

## The Need for Prescription Drug Affordability Review Boards

Americans spend more money on prescription drugs than citizens of any other country in the world. The high spending on prescription drugs is mostly attributed to increases in drug prices, rather than to an increase in prescription use.<sup>1</sup> Many of the more common policy strategies that states have implemented so far, such as laws regulating pharmacy benefit managers and drug pricing transparency laws, tend to indirectly impact drug prices by regulating parties along the pharmaceutical supply chain. As drug prices continue to increase, states are starting to pursue other solutions to help make medications more affordable. An increasingly popular strategy adopted by some states is to establish prescription drug affordability review boards.

Affordability review boards are independent regulatory bodies that are authorized by state governments to review and identify high drug prices in the state and recommend solutions that would reduce those prices. Legal precedent already exists for this type of review board. For decades, states have regulated the costs of health care and other public services by setting maximum payment limits.<sup>2</sup> For example, the Missouri Public Service Commission, established in 1913, is an entity authorized by the state government to review utility rates and ensure that utility services are available to Missourians at reasonable prices.<sup>3</sup>

The members of affordability review boards are typically appointed by state governors and are often comprised of health care professionals, economists, insurers, and consumer advocates. The types of drugs reviewed by these boards vary by state but are usually high-cost drugs that have passed a certain price threshold. The scope of authority granted to affordability review boards also varies by state. Some boards only have the authority to make policy recommendations, while others have the power to set price limits for certain high-cost drugs sold within the state. Recommendations and other actions by affordability review boards generally apply to commercial health plans, state employee plans, and state Medicaid programs.<sup>4</sup>

## Drug Affordability Review Board State Policies

Since 2017, eight states – Colorado, Massachusetts, Maryland, Maine, New Hampshire, New York, Oregon, and Washington – have passed laws to create affordability review boards with varying amounts of authority. Some review boards, such as those in Maine and Oregon, are authorized to study the state's pharmaceutical distribution and payment systems and make recommendations around policy options to help reduce the cost of drugs for consumers. Other review boards have more direct ability to regulate drug prices. For example, state review boards in Washington and Colorado have the authority to set upper payment limits for up to 12 drugs per year if they determine those drugs cause affordability issues.<sup>5</sup>

The affordability review board in Maine released its annual report in March 2022. The board's recommendations included administrative and legislative actions to help lower prescription drug costs for public payers. Specifically, the board recommended that insurers review their formularies and remove "wasteful" drugs, such as when high-price drugs are listed on the formulary even though a much less expensive generic is available. It also recommended that the state negotiate favorable transparency terms when contracting with pharmacy benefit managers. Additionally, the board recommended that the legislature should consider strategies such as instituting international reference rates, prohibiting price gouging, and penalizing unsupported price increases.<sup>6</sup> These kinds of recommendations from a state

affordability review board can help lay the groundwork for coordinated action to lower drug prices within a state.

### **Considerations for States in Planning Affordability Review Board Policies**

State policymakers should consider certain factors when planning and drafting policies to establish prescription drug affordability review boards. The review board's scope of authority is an important consideration in determining what the board can accomplish — e.g., whether it simply makes recommendations or directly sets upper payment limits for certain drugs. Additionally, transparency principles are an important part of affordability review board

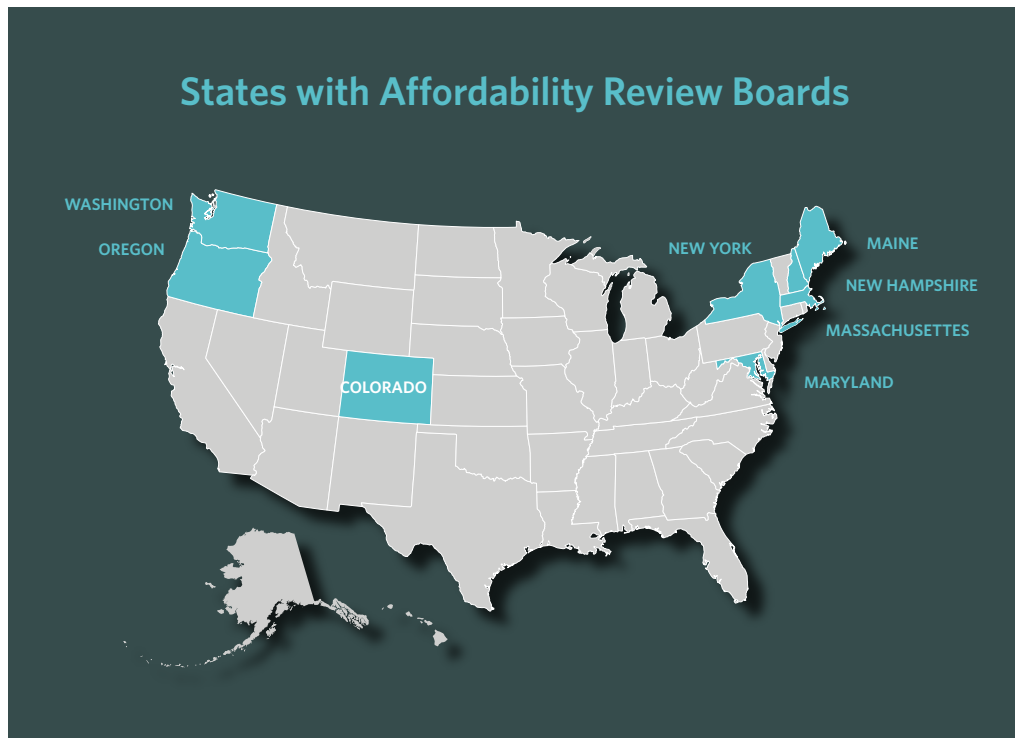
policy. Review boards need access to data on prices, costs, and utilization from manufacturers and others along the pharmaceutical supply chain in order to determine whether drug prices cause affordability issues. This information, however, is often considered proprietary. For these boards to be properly functional, states that do not already have drug pricing transparency laws must include transparency provisions in laws that establish review boards.<sup>7</sup>

### **Affordability Review Boards Can Help Lower Drug Prices in Missouri**

Affordability review boards are a relatively new policy solution that states are adopting to increase pricing transparency and reduce high drug prices. Seven of the eight states that have established affordability review boards have done so in the last three years. However, this policy solution is catching on in other states as well. In 2022, legislators in fourteen other states, including Arizona, Wisconsin, and Michigan, filed bills to establish state prescription drug affordability review boards.<sup>8</sup>

Missouri does not currently have this type of board in place, although bills have been introduced in recent legislative sessions to establish one. In 2019, for example, legislation was introduced that would have established a “drug cost review commission,” which would meet periodically to review drug cost information and collect data on rebates from pharmacy benefit managers.<sup>9</sup> Although this bill did not pass, there is growing public support for policies to reduce drug prices.

Data is not available yet on the effectiveness of affordability review boards in reducing drug prices. There are several reasons, however, that they are gaining popularity in state legislatures. Affordability review boards are a state-specific policy solution to tackle high prices and access to prescriptions, improve drug pricing transparency, and facilitate participation in the development of policy solutions. Establishing an affordability review board could be a compelling policy solution to reduce drug prices in Missouri.



### [Endnotes](#)