

SUMMARY—Revises provisions relating to the pricing of prescription drugs. (BDR 40-574)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State: Yes.

AN ACT relating to prescription drugs; establishing the Prescription Drug Affordability Board and the Prescription Drug Affordability Stakeholder Council; imposing certain requirements to prevent conflicts of interest involving a member of the Board; authorizing the Board to employ certain persons; requiring the Board to impose an assessment on manufacturers of prescription drugs; authorizing the Board to review the prices of certain prescription drugs; providing for the confidentiality of certain information used in such a review; authorizing the Board to prescribe an upper payment limit for a prescription drug that meets certain requirements after such a review; authorizing written appeals to the Board; requiring the Board to submit an annual report to the Legislature; revising provisions concerning coverage of prescription drugs under Medicaid and the Children's Health Insurance Program; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires a manufacturer of prescription drugs to report certain information relating to the prices of drugs determined by the Department of Health and Human Services to be



essential for treating diabetes in this State. (NRS 439B.635-439B.645) Existing law requires the Department to annually analyze that information and compile a report concerning the price of those drugs. (NRS 439B.650) **Section 12** of this bill establishes the Prescription Drug Affordability Board and provides for the appointment of regular and alternate members of the Board. **Section 12:** (1) requires each such member to have expertise in the economics of health care or the practice of clinical medicine; and (2) prohibits a member of the board from holding certain positions with a manufacturer or a trade association of manufacturers. **Section 13** of this bill prescribes requirements governing the procedure of the Board. **Section 13** additionally requires a member of the Board to recuse himself or herself from certain decisions and prohibits a member of the Board from accepting certain financial benefits, gifts or donations. **Sections 12 and 13** require the disclosure and publication of certain information concerning a conflict of interest involving a member of the Board. **Section 14** of this bill provides for the appointment of an Executive Director, a General Counsel and other employees of the Board. **Section 13** prohibits an employee of the Board from accepting certain gifts and donations. **Section 15** of this bill establishes the Prescription Drug Affordability Stakeholder Council and prescribes the qualifications of the members of the Council.

**Section 16** of this bill establishes the Prescription Drug Affordability Account to pay for the expenses of the Board and the Council. **Section 17** of this bill requires the Board to impose an assessment on manufacturers and requires the Board to deposit such assessments in the Account.

**Section 18** of this bill requires the Board to identify prescription drugs that meet certain criteria indicating that the price of the prescription drug may be creating significant challenges



for insurers and patients in this State. **Section 18** requires the Board, in consultation with the Council, to determine whether to conduct a review to determine whether the price of a prescription drug identified by the Board as meeting those criteria is creating significant challenges for insurers and patients in this State. **Section 19** of this bill prescribes the criteria the Board must consider when conducting such a review. **Section 20** of this bill authorizes the Board to: (1) use certain information concerning the price of a prescription drug when conducting such a review; and (2) take certain measures to acquire such information. **Sections 13, 20, 27 and 28** of this bill provide for the confidentiality of proprietary information considered by the Board. **Section 24** of this bill requires the Department to provide to the Board any information concerning the price of essential diabetes drugs and certain other information upon request.

**Section 21** of this bill requires the Board to prescribe a recommended upper payment limit for all purchases of a prescription drug for which the Board determines that the price of the drug is creating significant challenges for insurers and patients in this State. **Section 26** of this bill exempts such upper payment limits from the requirements applicable to regulations of state agencies generally. **Sections 29, 30 and 32-36** of this bill make any upper payment limits prescribed by the Board after January 1, 2024, mandatory. **Section 39** of this bill requires the Board to conduct an additional review of the price of a prescription drug for which a recommended upper payment limit was prescribed on or before December 31, 2023, and, if appropriate, to prescribe a mandatory upper payment limit for that drug.

**Section 22** of this bill authorizes a person aggrieved by a decision of the Board to submit a written appeal to the Board. **Section 23** of this bill: (1) authorizes the Board to adopt regulations



and enter into contracts; and (2) requires the Board to submit to the Legislature an annual report concerning trends in prescription drug pricing and the reviews conducted by the Board.

**Section 31** of this bill requires any contract between the Department of Health and Human Services and a pharmacy benefit manager to provide services related to prescription drug coverage under Medicaid or the Children's Health Insurance Program to require the pharmacy benefit manager to provide to the Department any information concerning such services provided pursuant to the contract. If the Department does not enter into such a contract, **section 31** also requires the Department to directly manage and coordinate such services.

Existing law requires the Department to develop a list of preferred prescription drugs to be used for the Medicaid program. (NRS 422.4025) **Section 34** of this bill requires the list to be used as the formulary for any prescription drug coverage provided pursuant to Medicaid or the Children's Health Insurance Program through managed care.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** Chapter 439B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 23, inclusive, of this act.



*Sec. 2. As used in sections 2 to 23, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 11, inclusive, of this act have the meanings ascribed to them in those sections.*

*Sec. 3. “Board” means the Prescription Drug Affordability Board established by section 12 of this act.*

*Sec. 4. “Brand name prescription drug” means a prescription drug that is produced or distributed in accordance with an original new drug application approved pursuant to 21 U.S.C. § 355(c). The term does not include an authorized generic drug, as defined in 42 C.F.R. § 447.502.*

*Sec. 5. “Council” means the Prescription Drug Affordability Stakeholder Council established by section 15 of this act.*

*Sec. 6. “Generic prescription drug” means:*

- 1. A prescription drug that is marketed or distributed in accordance with an abbreviated new drug application that has been approved pursuant to 21 U.S.C. § 355(j);*
- 2. An authorized generic drug, as defined in 42 C.F.R. § 447.502; and*
- 3. A prescription drug that entered the market before January 1, 1962, and was not originally marketed under a new drug application.*

*Sec. 7. “Health carrier” means an entity subject to the insurance laws and regulations of this State, or subject to the jurisdiction of the Commissioner of Insurance, that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services, including, without limitation, a sickness and accident health insurance*



*company, a health maintenance organization, a nonprofit hospital and health service corporation or any other entity providing a plan of health insurance, health benefits or health care services.*

**Sec. 8.** *“Manufacturer” has the meaning ascribed to it in NRS 639.009.*

**Sec. 9.** *“Pharmacy benefit manager” has the meaning ascribed to it in NRS 683A.174.*

**Sec. 10.** *“Upper payment limit” means the maximum amount that the Board recommends that a health carrier or other person pay for a dose of a prescription drug pursuant to section 21 of this act.*

**Sec. 11.** *“Wholesale acquisition cost” has the meaning ascribed to it in NRS 439B.620*

**Sec. 12.** *1. The Prescription Drug Affordability Board is hereby established. The Board consists of the following regular members:*

*(a) One member appointed by the Governor;*

*(b) One member appointed by the Majority Leader of the Senate;*

*(c) One member appointed by the Speaker of the Assembly;*

*(d) One member appointed by the Attorney General; and*

*(e) One member jointly appointed by the Majority Leader of the Senate and the Speaker of the Assembly. The member appointed pursuant to this paragraph shall serve as the Chair of the Board.*

*2. In addition to the regular members appointed to the Board pursuant to subsection 1:*

*(a) The Governor shall appoint one alternate member;*

*(b) The Majority Leader of the Senate shall appoint one alternate member; and*



*(c) The Speaker of the Assembly shall appoint one alternate member.*

*3. A regular member of the Board appointed pursuant to subsection 1 or an alternate member of the Board appointed pursuant to subsection 2:*

*(a) Must have expertise in the economics of health care or the practice of clinical medicine; and*

*(b) Must not be an employee, officer, member of the executive board or consultant of a manufacturer or a trade association for manufacturers.*

*4. Before being appointed as a regular or alternate member of the Board, a person shall disclose to the authority considering the appointment any potential conflict of interest, including, without limitation, a financial interest or personal association, that may create bias or the appearance of bias in matters related to the duties of the Board. An appointing authority shall disclose to the Chair of the Board any conflict of interest reported to him or her not later than 5 days after the identification of the conflict of interest. The Board shall post on an Internet website maintained by the Board notification of the conflict of interest, including, without limitation, the type and significance of the conflict of interest and the name of the potential member involved.*

*5. In appointing the regular and alternate members of the Board described in subsections 1 and 2, the appointing authorities shall coordinate the appointments when practicable so that the regular and alternate members of the Board reflect the ethnic and geographic diversity of this State.*



6. *After the initial terms, each regular and alternate member of the Board serves for a term of 4 years. Each member of the Board continues in office until his or her successor is appointed. Members may be reappointed for additional terms of 4 years in the same manner as the original appointments. Any vacancy occurring in the membership of the Board must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.*

7. *Each regular or alternate member of the Board who is not an officer or employee of this State or a political subdivision of this State is entitled to receive a salary of \$80 per day while engaged in the business of the Board.*

8. *While engaged in the business of the Board, each regular and alternate member of the Board is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.*

9. *A majority of the members of the Board constitutes a quorum for the transaction of business, and a majority of a quorum present at any meeting is sufficient for any official action taken by the Board.*

10. *A regular or alternate member of the Board who is an officer or employee of this State or a political subdivision of this State must be relieved from his or her duties without loss of regular compensation to prepare for and attend meetings of the Board and perform any work necessary to carry out the duties of the Board in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Board to:*



*(a) Make up the time he or she is absent from work to carry out his or her duties as a member of the Board; or*

*(b) Take annual leave or compensatory time for the absence.*

**Sec. 13.** *1. Except as otherwise provided in this subsection, the Board shall meet at the call of the Chair of the Board or a majority of its regular members and not less than once every 6 weeks. The Board may cancel or postpone a meeting if there are no prescription drugs to review pursuant to section 19 of this act.*

*2. The Board may close any portion of a meeting during which it considers proprietary information concerning a prescription drug. Any portion of a meeting that is closed pursuant to this subsection is not subject to the provisions of chapter 241 of NRS. The Board shall not vote on any matter during the closed portion of a meeting.*

*3. If any regular member of the Board informs the Chair that the member will be unable to attend a scheduled meeting of the Board, the Chair must select an alternate member to replace the regular member at that meeting only, with all the duties, rights and privileges of the replaced member.*

*4. A regular or alternate member of the Board shall recuse himself or herself from a decision of the Board if the member or a member of his or her immediate family may receive a direct financial benefit, including, without limitation, honoraria, fees, stock or an increase in the value of an investment, deriving from the decision or any action taken pursuant to the decision.*



5. *A regular or alternate member of the Board shall not accept from a manufacturer or other person or entity who manufactures or distributes products or services related to prescription drugs or a person who owns or invests in a manufacturer or other such person or entity financial benefits that, in aggregate, exceed \$5,000 in any calendar year.*

6. *A regular or alternate member, independent contractor or employee of the Board shall not accept any gift or donation of services or property that creates a potential conflict of interest or has the appearance of creating bias concerning the work of the Board.*

7. *A regular or alternate member of the Board shall disclose to the Chair of the Board any conflict of interest that affects the member before the meeting of the Board immediately following the identification of the conflict of interest or not later than 5 days after the identification of the conflict of interest, whichever is earlier. The Chair may recuse a member who discloses a conflict of interest from any decision of the Board to which the conflict of interest is relevant. If a member who discloses a conflict of interest is not recused, the Board must post on an Internet website maintained by the Board notification of the conflict of interest, including, without limitation, a description of the type and significance of the conflict of interest and the name of the member involved.*

**Sec. 14.** *1. Upon approval by a majority of the members of the Board, the Board shall appoint an Executive Director, General Counsel and such other employees as the Board deems necessary.*



*2. The Executive Director and General Counsel are in the unclassified service of the State and serve at the pleasure of the Board. Any other employees of the Board are in the classified service of the State.*

*3. The Board shall establish the qualifications, powers and duties of the Executive Director and General Counsel.*

**Sec. 15.** *1. The Prescription Drug Affordability Stakeholder Council is hereby established.*

*2. The Speaker of the Assembly shall appoint to the Council:*

*(a) One member who is a representative of a statewide organization that advocates for consumers of health care;*

*(b) One member who is a representative of a statewide organization that advocates for senior citizens;*

*(c) One member who is a representative of a statewide organization that advocates for members of minority groups;*

*(d) One member who is a representative of an employee organization;*

*(e) Two members who perform scientific research concerning prescription drugs; and*

*(f) One member who is a representative of the general public.*

*3. The Majority Leader of the Senate shall appoint to the Council:*

*(a) One member who is a representative of physicians;*

*(b) One member who is a representative of nurses;*

*(c) One member who is a representative of hospitals;*



- (d) One member who is a representative of health insurers;*
- (e) One member who is a representative of the Budget Division of the Office of Finance;*
- (f) One member who performs clinical research concerning prescription drugs; and*
- (g) One member who is a representative of the general public.*

*4. The Governor shall appoint to the Council:*

*(a) One member who is a representative of manufacturers of brand name prescription drugs;*

*(b) One member who is a representative of manufacturers of generic prescription drugs;*

*(c) One member who is a representative of employers;*

*(d) One member who is a representative of pharmacy benefit managers;*

*(e) One member who is a representative of pharmacists;*

*(f) One pharmacologist; and*

*(g) One member who is a representative of the general public.*

*5. In appointing the members of the Council described in subsections 2, 3 and 4, the appointing authorities shall coordinate the appointments when practicable so that the members of the Council reflect the ethnic and geographic diversity of this State.*

*6. Each member of the Council must have knowledge in at least one of the following subject areas:*

*(a) The business models of manufacturers.*

*(b) The supply chain for the production and distribution of prescription drugs.*

*(c) The practice of medicine or clinical training.*



*(d) Perspectives of consumers of prescription drugs.*

*(e) Trends in and drivers of the cost of health care.*

*(f) Clinical research or other research concerning the provision of health care.*

*(g) The Silver State Health Insurance Exchange established by NRS 695I.200.*

*7. After the initial terms, each member of the Council serves for a term of 3 years. Each member of the Council continues in office until his or her successor is appointed. Members may be reappointed for additional terms of 3 years in the same manner as the original appointments. Any vacancy occurring in the membership of the Council must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.*

*8. The members of the Council serve without compensation but are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.*

*9. At its first meeting and annually thereafter, the Council shall elect a Chair from among its members. A majority of the members of the Council constitutes a quorum for the transaction of business, and a majority of a quorum present at any meeting is sufficient for any official action taken by the Council.*

*10. A member of the Council who is an officer or employee of this State or a political subdivision of this State must be relieved from his or her duties without loss of regular compensation to prepare for and attend meetings of the Council and perform any work necessary to carry out the duties of the Council in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Council to:*



*(a) Make up the time he or she is absent from work to carry out his or her duties as a member of the Council; or*

*(b) Take annual leave or compensatory time for the absence.*

**Sec. 16. 1.** *The Prescription Drug Affordability Account is hereby created in the State General Fund. The Account must be administered by the Board.*

*2. The interest and income earned on:*

*(a) The money in the Account, after deducting any applicable charges; and*

*(b) Unexpended appropriations made to the Account from the State General Fund,*

*↪ must be credited to the Account.*

*3. Any money remaining in the Account at the end of a fiscal year including, without limitation, any unexpended appropriations made to the Account from the State General Fund, does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.*

*4. The Board may accept gifts and grants of money from any source for deposit in the Account.*

*5. The money in the Account may only be used to pay the expenses incurred by the Board and the Council to perform the duties prescribed in sections 2 to 23, inclusive, of this act.*

**Sec. 17.** *The Board shall:*

*1. Impose on each manufacturer that sells prescription drugs for distribution in this State an annual assessment equal to the percentage of the total sales of prescription drugs in this State that are attributable to the manufacturer multiplied by the total estimated costs of the*



*Board and Council to perform the duties prescribed by sections 2 to 23, inclusive, of this act during the immediately preceding fiscal year.*

*2. Deposit the assessments collected pursuant to subsection 1 in the Prescription Drug Affordability Account created by section 16 of this act.*

**Sec. 18. 1. The Board shall identify:**

*(a) Each brand name prescription drug for which:*

*(1) If the prescription drug is a new drug, the wholesale acquisition cost is \$30,000 or more per year or for a course of treatment; or*

*(2) The wholesale acquisition cost has increased by \$3,000 or more in any 12-month period or, if a course of treatment using the prescription drug is less than 12 months, during the time period of a course of treatment.*

*(b) Each new biosimilar prescription drug that has a wholesale acquisition cost that is not at least 15 percent lower than the brand name prescription drug to which the new prescription drug is biosimilar;*

*(c) Each generic prescription drug for which the wholesale acquisition cost:*

*(1) Is \$100 or more for:*

*(I) A supply of the drug for 30 days or less, as calculated using the recommended dosage approved by the United States Food and Drug Administration; or*

*(II) If no such recommended dosage has been approved, for one unit of the drug; or*

*(2) Increased by 200 percent or more during the immediately preceding calendar year;*  
*and*



*(d) Any other prescription drug for which the Board determines, in consultation with the Council, that the price of the drug may be creating significant challenges for insurers and patients in this State.*

*2. For each prescription drug identified pursuant to subsection 1, the Board shall, in consultation with the Council, determine whether to conduct a review of price of the drug pursuant to section 19 of this act. When determining whether to conduct such a review, the Board shall consider, without limitation, the average copayment or coinsurance required for the prescription drug in this State.*

*3. The dollar amounts set forth in this section must be adjusted by the Board every year by an amount equal to the percentage increase in the Consumer Price Index, Medical, for the immediately preceding year.*

*4. As used in this section, “biosimilar” means a prescription drug that is produced or distributed in accordance with a biologics license application approved pursuant to 42 U.S.C. § 262(k)(3).*

**Sec. 19.** *1. The Board may review the price of any prescription drug identified as meeting the criteria prescribed by section 18 of this act to determine whether the price of the prescription drug is creating significant challenges for insurers and patients in this State.*

*2. In making a determination pursuant to subsection 1, the Board shall consider, to the extent that such information is available:*

*(a) The wholesale acquisition cost of the prescription drug;*



*(b) The average discount or rebate that the manufacturer of the prescription drug provides to health carriers in connection with the sale of the prescription drug in this State and the percentage of the wholesale acquisition cost of the prescription drug that is covered by that average discount or rebate;*

*(c) The average discount or rebate that the manufacturer of the prescription drug provides to pharmacy benefit managers in connection with the sale of the prescription drug in this State and the percentage of the wholesale acquisition cost of the prescription drug that is covered by that average discount or rebate;*

*(d) The prices at which comparable alternative prescription drugs are sold in this State;*

*(e) The average discount or rebate that the manufacturers of comparable alternative prescription drugs provide to health carriers and pharmacy benefit managers in connection with the sale of those alternative prescription drugs in this State;*

*(f) The cost to health carriers to provide covered persons with access to the prescription drug in this State;*

*(g) The impact of the price of the prescription drug on access to the prescription drug in this State;*

*(h) The current or expected monetary value in this State of patient access programs that are specific to the prescription drug and supported by the manufacturer of the prescription drug;*



*(i) The impact of the price of the prescription drug on the cost of public health services, medical services and social services in this State relative to the impact of the prices of comparable alternative prescription drugs on such services;*

*(j) The average copayment or coinsurance paid by patients for the prescription drug in this State; and*

*(k) Any other factors prescribed by regulation of the Board.*

*3. If the Board is unable to make a determination pursuant to subsection 1 after considering the factors prescribed by subsection 2, the Board may consider:*

*(a) The research and development costs of the manufacturer, as indicated in publicly available tax documents or information filed with the Securities and Exchange Commission for the most recent tax year, in proportion to the sales of the manufacturer in this State;*

*(b) The percentage of the amount spent by the manufacturer for marketing prescription drugs directly to consumers that is:*

*(1) Eligible for favorable treatment with respect to federal taxes; and*

*(2) Attributable to the prescription drug;*

*(c) Gross and net revenues of the manufacturer for the most recent tax year;*

*(d) Any additional relevant factor recommended by the manufacturer; and*

*(e) Any other factor prescribed by regulation of the Board.*

**Sec. 20. 1.** *In conducting a review pursuant to this section 19 of this act, the Board may use any information relating to the selection of the price of the prescription drug by the manufacturer, including, without limitation, publicly available information, information*



*disclosed to the Department pursuant to NRS 439B.600 to 439B.695, inclusive, information obtained through a memorandum of understanding entered into pursuant to subsection 2 and information requested and obtained from the manufacturer.*

*2. The Board may enter into a memorandum of understanding with any agency of another State for the sharing of information concerning the prices of prescription drugs, including, without limitation, information reported to the Department pursuant to NRS 439B.600 to 439B.695, inclusive.*

*3. Except as otherwise provided in this subsection, any proprietary information disclosed to the Board pursuant to this section is confidential and is not a public record. Such information may be disclosed to an agency of another state pursuant to a memorandum of understanding entered into under the provisions of subsection 2 if the agency has requirements concerning the confidentiality of such information similar to those prescribed by this subsection.*

*4. Failure of a manufacturer to provide information requested by the Board pursuant to subsection 1 does not affect the authority of the Board to conduct a review pursuant to section 19 of this act or to prescribe an upper payment limit pursuant to section 21 of this act.*

**Sec. 21.** *1. If, after conducting a review pursuant to section 19 of this act, the Board determines that the price of a prescription drug is creating significant challenges for insurers and patients in this State, the Board shall prescribe a recommended upper payment limit for purchases of the prescription drug in this State. When establishing a recommended upper*



*payment limit for a prescription drug, the Board shall consider, to the extent that such information is available and relevant:*

- (a) The cost of administering the prescription drug;*
- (b) The cost of delivering the prescription drug to consumers;*
- (c) Any other relevant administrative costs related to the prescription drug; and*
- (d) The information described in section 19 of this act.*

*2. The Board may revise or rescind a recommended upper payment limit imposed pursuant to this section if, after conducting a review pursuant to section 19 of this act, it determines that conditions warrant the revision or rescinding of the upper payment limit, as applicable.*

*3. The Board shall collaborate with the Council, manufacturers, health carriers, consumers of prescription drugs and other interested persons to:*

*(a) Establish and refine a methodology to for prescribing upper payment limits pursuant to this section; and*

*(b) Improve the quality and quantity of information received by the Board pursuant to section 20 of this act.*

**Sec. 22.** *1. Any person aggrieved by a decision of the Board may submit a written appeal to the Board not later than 30 days after the date of the decision. The Board shall rule on the appeal not later than 60 days after receiving the appeal.*

*2. A decision of the Board concerning an appeal pursuant to subsection 1 is a final decision for purposes of judicial review.*



**Sec. 23. 1. *The Board may:***

*(a) Adopt any regulations necessary to carry out the provisions of sections 2 to 23, inclusive, of this act.*

*(b) Enter into any contract necessary to carry out the provisions of sections 2 to 23, inclusive, of this act.*

**2. *On or before December 31 of each year, the Board shall submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report that includes, without limitation:***

*(a) Information concerning trends in the price of prescription drugs;*

*(b) The number of prescription drugs that were reviewed pursuant to section 19 of this act and the outcomes of such reviews, any appeals submitted pursuant to section 22 of this act and any judicial review of such appeals; and*

*(c) Any recommendations of the Board to increase the affordability of prescription drugs in this State.*

**Sec. 24. NRS 439B.670 is hereby amended to read as follows:**

439B.670 1. Except as otherwise provided in subsection 2 and subsection 3 of NRS 439B.660, the Department shall:

(a) Place or cause to be placed on the Internet website maintained by the Department:

(1) The information provided by each pharmacy pursuant to NRS 439B.655;

(2) The information compiled by a nonprofit organization pursuant to NRS 439B.665 if such a report is submitted pursuant to paragraph (b) of subsection 1 of that section;



(3) The lists of prescription drugs compiled by the Department pursuant to NRS 439B.630;

(4) The wholesale acquisition cost of each prescription drug reported pursuant to NRS 439B.635; and

(5) The reports compiled by the Department pursuant to NRS 439B.650 and 439B.660.

(b) Ensure that the information placed on the Internet website maintained by the Department pursuant to paragraph (a) is organized so that each individual pharmacy, manufacturer and nonprofit organization has its own separate entry on that website; and

(c) Ensure that the usual and customary price that each pharmacy charges for each prescription drug that is on the list prepared pursuant to NRS 439B.625 and that is stocked by the pharmacy:

(1) Is presented on the Internet website maintained by the Department in a manner which complies with the requirements of NRS 439B.675; and

(2) Is updated not less frequently than once each calendar quarter.

↪ Nothing in this subsection prohibits the Department from determining the usual and customary price that a pharmacy charges for a prescription drug by extracting or otherwise obtaining such information from claims reported by pharmacies to the Medicaid program.

2. If a pharmacy is part of a larger company or corporation or a chain of pharmacies or retail stores, the Department may present the pricing information pertaining to such a pharmacy in such a manner that the pricing information is combined with the pricing information relative to



other pharmacies that are part of the same company, corporation or chain, to the extent that the pricing information does not differ among those pharmacies.

3. The Department may establish additional or alternative procedures by which a consumer who is unable to access the Internet or is otherwise unable to receive the information described in subsection 1 in the manner in which it is presented by the Department may obtain that information:

- (a) In the form of paper records;
- (b) Through the use of a telephonic system; or
- (c) Using other methods or technologies designed specifically to assist consumers who are hearing impaired or visually impaired.

4. *The Department shall provide to the Prescription Drug Affordability Board established pursuant to section 12 of this act any information submitted to the Department pursuant to NRS 439B.600 to 439B.695, inclusive, upon the request of the Board.*

5. As used in this section, “usual and customary price” means the usual and customary charges that a pharmacy charges to the general public for a drug, as described in 42 C.F.R. § 447.512.

**Sec. 25.** NRS 232.320 is hereby amended to read as follows:

232.320 1. The Director:

(a) Shall appoint, with the consent of the Governor, administrators of the divisions of the Department, who are respectively designated as follows:

- (1) The Administrator of the Aging and Disability Services Division;



- (2) The Administrator of the Division of Welfare and Supportive Services;
- (3) The Administrator of the Division of Child and Family Services;
- (4) The Administrator of the Division of Health Care Financing and Policy; and
- (5) The Administrator of the Division of Public and Behavioral Health.

(b) Shall administer, through the divisions of the Department, the provisions of chapters 63, 424, 425, 427A, 432A to 442, inclusive, 446 to 450, inclusive, 458A and 656A of NRS, NRS 127.220 to 127.310, inclusive, 422.001 to 422.410, inclusive, *and section 31 of this act*, 422.580, 432.010 to 432.133, inclusive, 432B.621 to 432B.626, inclusive, 444.002 to 444.430, inclusive, and 445A.010 to 445A.055, inclusive, and all other provisions of law relating to the functions of the divisions of the Department, but is not responsible for the clinical activities of the Division of Public and Behavioral Health or the professional line activities of the other divisions.

(c) Shall administer any state program for persons with developmental disabilities established pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. §§ 15001 et seq.

(d) Shall, after considering advice from agencies of local governments and nonprofit organizations which provide social services, adopt a master plan for the provision of human services in this State. The Director shall revise the plan biennially and deliver a copy of the plan to the Governor and the Legislature at the beginning of each regular session. The plan must:

(1) Identify and assess the plans and programs of the Department for the provision of human services, and any duplication of those services by federal, state and local agencies;



- (2) Set forth priorities for the provision of those services;
  - (3) Provide for communication and the coordination of those services among nonprofit organizations, agencies of local government, the State and the Federal Government;
  - (4) Identify the sources of funding for services provided by the Department and the allocation of that funding;
  - (5) Set forth sufficient information to assist the Department in providing those services and in the planning and budgeting for the future provision of those services; and
  - (6) Contain any other information necessary for the Department to communicate effectively with the Federal Government concerning demographic trends, formulas for the distribution of federal money and any need for the modification of programs administered by the Department.
- (e) May, by regulation, require nonprofit organizations and state and local governmental agencies to provide information regarding the programs of those organizations and agencies, excluding detailed information relating to their budgets and payrolls, which the Director deems necessary for the performance of the duties imposed upon him or her pursuant to this section.
- (f) Has such other powers and duties as are provided by law.

2. Notwithstanding any other provision of law, the Director, or the Director's designee, is responsible for appointing and removing subordinate officers and employees of the Department, other than the State Public Defender of the Office of State Public Defender who is appointed pursuant to NRS 180.010.

**Sec. 26.** NRS 233B.039 is hereby amended to read as follows:



233B.039 1. The following agencies are entirely exempted from the requirements of this chapter:

- (a) The Governor.
- (b) Except as otherwise provided in NRS 209.221, the Department of Corrections.
- (c) The Nevada System of Higher Education.
- (d) The Office of the Military.
- (e) The Nevada Gaming Control Board.
- (f) Except as otherwise provided in NRS 368A.140 and 463.765, the Nevada Gaming Commission.
- (g) Except as otherwise provided in NRS 425.620, the Division of Welfare and Supportive Services of the Department of Health and Human Services.
- (h) Except as otherwise provided in NRS 422.390, the Division of Health Care Financing and Policy of the Department of Health and Human Services.
- (i) The State Board of Examiners acting pursuant to chapter 217 of NRS.
- (j) Except as otherwise provided in NRS 533.365, the Office of the State Engineer.
- (k) The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of NRS 618.375.
- (l) The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260.



(m) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to NRS 445C.310.

(n) The Silver State Health Insurance Exchange.

2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education, the Board of the Public Employees' Benefits Program and the Commission on Professional Standards in Education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

3. The special provisions of:

(a) Chapter 612 of NRS for the distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation;

(b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;

(c) Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and

(d) NRS 90.800 for the use of summary orders in contested cases,

↪ prevail over the general provisions of this chapter.

4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.

5. The provisions of this chapter do not apply to:



(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health, or any other agency of this State in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control;

(b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to NRS 453.2184;

(c) A regulation adopted by the State Board of Education pursuant to NRS 388.255 or 394.1694;

(d) The judicial review of decisions of the Public Utilities Commission of Nevada; or

(e) The adoption, amendment or repeal of policies by the Rehabilitation Division of the Department of Employment, Training and Rehabilitation pursuant to NRS 426.561 or 615.178.

*(f) An upper payment limit prescribed by the Prescription Drug Affordability Board pursuant to section 21 of this act.*

6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

**Sec. 27.** NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067,



88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 394.167, 394.1698, 394.447,



394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902, 433.534, 433A.360, 437.145, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 445A.665, 445B.570, 449.209, 449.245, 449A.112, 450.140, 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641.325, 641A.191, 641A.289, 641B.170, 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340,



676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, *and section 20 of this act*, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential



information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

**Sec. 28.** NRS 241.016 is hereby amended to read as follows:

241.016 1. The meetings of a public body that are quasi-judicial in nature are subject to the provisions of this chapter.

2. The following are exempt from the requirements of this chapter:

(a) The Legislature of the State of Nevada.

(b) Judicial proceedings, including, without limitation, proceedings before the Commission on Judicial Selection and, except as otherwise provided in NRS 1.4687, the Commission on Judicial Discipline.



(c) Meetings of the State Board of Parole Commissioners when acting to grant, deny, continue or revoke the parole of a prisoner or to establish or modify the terms of the parole of a prisoner.

3. Any provision of law, including, without limitation, NRS 91.270, 219A.210, 228.495, 239C.140, 281A.350, 281A.690, 281A.735, 281A.760, 284.3629, 286.150, 287.0415, 287.04345, 287.338, 288.220, 289.387, 295.121, 360.247, 388.261, 388A.495, 388C.150, 388G.710, 388G.730, 392.147, 392.467, 394.1699, 396.3295, 433.534, 435.610, 463.110, 622.320, 622.340, 630.311, 630.336, 631.3635, 639.050, 642.518, 642.557, 686B.170, 696B.550, 703.196 and 706.1725 ~~§~~ *and section 13 of this act*, which:

(a) Provides that any meeting, hearing or other proceeding is not subject to the provisions of this chapter; or

(b) Otherwise authorizes or requires a closed meeting, hearing or proceeding,  
↪ prevails over the general provisions of this chapter.

4. The exceptions provided to this chapter, and electronic communication, must not be used to circumvent the spirit or letter of this chapter to deliberate or act, outside of an open and public meeting, upon a matter over which the public body has supervision, control, jurisdiction or advisory powers.

**Sec. 29.** NRS 287.010 is hereby amended to read as follows:

287.010 1. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada may:



(a) Adopt and carry into effect a system of group life, accident or health insurance, or any combination thereof, for the benefit of its officers and employees, and the dependents of officers and employees who elect to accept the insurance and who, where necessary, have authorized the governing body to make deductions from their compensation for the payment of premiums on the insurance.

(b) Purchase group policies of life, accident or health insurance, or any combination thereof, for the benefit of such officers and employees, and the dependents of such officers and employees, as have authorized the purchase, from insurance companies authorized to transact the business of such insurance in the State of Nevada, and, where necessary, deduct from the compensation of officers and employees the premiums upon insurance and pay the deductions upon the premiums.

(c) Provide group life, accident or health coverage through a self-insurance reserve fund and, where necessary, deduct contributions to the maintenance of the fund from the compensation of officers and employees and pay the deductions into the fund. The money accumulated for this purpose through deductions from the compensation of officers and employees and contributions of the governing body must be maintained as an internal service fund as defined by NRS 354.543. The money must be deposited in a state or national bank or credit union authorized to transact business in the State of Nevada. Any independent administrator of a fund created under this section is subject to the licensing requirements of chapter 683A of NRS, and must be a resident of this State. Any contract with an independent administrator must be approved by the Commissioner of Insurance as to the reasonableness of administrative charges in relation to



contributions collected and benefits provided. The provisions of NRS 687B.408, 689B.030 to 689B.050, inclusive, and 689B.287 *and section 33 of this act* apply to coverage provided pursuant to this paragraph, except that the provisions of NRS 689B.0378 and 689B.03785 only apply to coverage for active officers and employees of the governing body, or the dependents of such officers and employees.

(d) Defray part or all of the cost of maintenance of a self-insurance fund or of the premiums upon insurance. The money for contributions must be budgeted for in accordance with the laws governing the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada.

2. If a school district offers group insurance to its officers and employees pursuant to this section, members of the board of trustees of the school district must not be excluded from participating in the group insurance. If the amount of the deductions from compensation required to pay for the group insurance exceeds the compensation to which a trustee is entitled, the difference must be paid by the trustee.

3. In any county in which a legal services organization exists, the governing body of the county, or of any school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada in the county, may enter into a contract with the legal services organization pursuant to which the officers and employees of the legal services organization, and the dependents of those officers and employees, are eligible for any life, accident or health insurance provided pursuant to this section to the officers and employees, and the dependents of the officers and employees, of the county, school district,



municipal corporation, political subdivision, public corporation or other local governmental agency.

4. If a contract is entered into pursuant to subsection 3, the officers and employees of the legal services organization:

(a) Shall be deemed, solely for the purposes of this section, to be officers and employees of the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency with which the legal services organization has contracted; and

(b) Must be required by the contract to pay the premiums or contributions for all insurance which they elect to accept or of which they authorize the purchase.

5. A contract that is entered into pursuant to subsection 3:

(a) Must be submitted to the Commissioner of Insurance for approval not less than 30 days before the date on which the contract is to become effective.

(b) Does not become effective unless approved by the Commissioner.

(c) Shall be deemed to be approved if not disapproved by the Commissioner within 30 days after its submission.

6. As used in this section, “legal services organization” means an organization that operates a program for legal aid and receives money pursuant to NRS 19.031.

**Sec. 30.** NRS 287.04335 is hereby amended to read as follows:

287.04335 If the Board provides health insurance through a plan of self-insurance, it shall comply with the provisions of NRS 687B.409, 689B.255, 695G.150, 695G.160, 695G.162, 695G.164, 695G.1645, 695G.1665, 695G.167, 695G.170 to 695G.173, inclusive, 695G.177,



695G.200 to 695G.230, inclusive, 695G.241 to 695G.310, inclusive, and 695G.405 ~~§~~ *and section 33 of this act*, in the same manner as an insurer that is licensed pursuant to title 57 of NRS is required to comply with those provisions.

**Sec. 31.** Chapter 422 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in subsection 2, the Department shall directly manage, direct and coordinate all payments and rebates for prescription drugs and all other services and payments relating to the provision of prescription drugs under the State Plan for Medicaid and the Children’s Health Insurance Program.*

*2. The Department may enter into a contract with a pharmacy benefit manager for the provision of any services described in subsection 1. Such a contract must require the pharmacy benefit manager to disclose to the Department any information relating to the services covered by the contract, including, without limitation, information concerning dispensing fees, measures for the control of costs, rebates collected and paid and any fees and charges imposed by the pharmacy benefit manager pursuant to the contract.*

*3. As used in this section, “pharmacy benefit manager” has the meaning ascribed to it in NRS 683A.174.*

**Sec. 32.** NRS 683A.179 is hereby amended to read as follows:

683A.179 1. A pharmacy benefit manager shall not:



(a) Prohibit a pharmacist or pharmacy from providing information to a covered person concerning the amount of any copayment or coinsurance for a prescription drug or informing a covered person concerning the clinical efficacy of a less expensive alternative drug;

(b) Penalize a pharmacist or pharmacy for providing the information described in paragraph (a) or selling a less expensive alternative drug to a covered person;

(c) Prohibit a pharmacy from offering or providing delivery services directly to a covered person as an ancillary service of the pharmacy; ~~for~~

(d) If the pharmacy benefit manager manages a pharmacy benefits plan that provides coverage through a network plan, charge a copayment or coinsurance for a prescription drug in an amount that is greater than the total amount paid to a pharmacy that is in the network of providers under contract with the third party ~~to~~; *or*

*(e) Pay or arrange for the payment of an amount for a prescription drug that exceeds any upper payment limit prescribed for that drug pursuant to section 21 of this act. For the purposes of this paragraph, the amount paid for a prescription drug means the price paid for the drug, less any rebates received by the payor.*

2. As used in this section, “network plan” means a health benefit plan offered by a health carrier under which the financing and delivery of medical care is provided, in whole or in part, through a defined set of providers under contract with the carrier. The term does not include an arrangement for the financing of premiums.

**Sec. 33.** Chapter 687B of NRS is hereby amended by adding thereto a new section to read as follows:



*1. A health carrier shall not pay an amount for a prescription drug that exceeds any upper payment limit prescribed for that drug pursuant to section 21 of this act.*

*2. For the purposes of this section, the amount paid by a health carrier for a prescription drug means the price paid for the drug, less any rebates received by the health carrier.*

*3. As used in this section, "health carrier" has the meaning ascribed to it in NRS 695G.024.*

**Sec. 34.** NRS 695C.1703 is hereby amended to read as follows:

695C.1703 1. A health maintenance organization or insurer that offers or issues evidence of coverage which provides coverage for prescription drugs shall include with any evidence of that coverage provided to an enrollee, notice of whether a formulary is used and, if so, of the opportunity to secure information regarding the formulary from the organization or insurer pursuant to subsection 2. The notice required by this subsection must:

(a) Be in a language that is easily understood and in a format that is easy to understand;

(b) Include an explanation of what a formulary is; and

(c) If a formulary is used, include:

(1) An explanation of:

(I) How often the contents of the formulary are reviewed; and

(II) The procedure and criteria for determining which prescription drugs are included in

and excluded from the formulary; and

(2) The telephone number of the organization or insurer for making a request for information regarding the formulary pursuant to subsection 2.



2. If a health maintenance organization or insurer offers or issues evidence of coverage which provides coverage for prescription drugs and a formulary is used, the organization or insurer shall:

(a) Provide to any enrollee or participating provider of health care upon request:

(1) Information regarding whether a specific drug is included in the formulary.

(2) Access to the most current list of prescription drugs in the formulary, organized by major therapeutic category, with an indication of whether any listed drugs are preferred over other listed drugs. If more than one formulary is maintained, the organization or insurer shall notify the requester that a choice of formulary lists is available.

(b) Notify each person who requests information regarding the formulary, that the inclusion of a drug in the formulary does not guarantee that a provider of health care will prescribe that drug for a particular medical condition.

*3. A health maintenance organization that provides coverage for prescription drugs through managed care to recipients of Medicaid under the State Plan for Medicaid or the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Health and Human Services shall use as the formulary for prescription drug coverage the list of preferred prescription drugs prescribed by the Department pursuant to NRS 422.4025 to be used for the Medicaid program.*

**Sec. 35.** Section 21 of this act is hereby amended to read as follows:

Sec. 21. 1. If, after conducting a review pursuant to section 19 of this act, the Board determines that the price of a prescription drug is creating significant challenges for



insurers and patients in this State, the Board shall prescribe a ~~recommended~~ *mandatory* upper payment limit for purchases of the prescription drug in this State. When establishing a ~~recommended~~ *mandatory* upper payment limit for a prescription drug, the Board shall consider, to the extent that such information is available and relevant:

- (a) The cost of administering the prescription drug;
- (b) The cost of delivering the prescription drug to consumers;
- (c) Any other relevant administrative costs related to the prescription drug; and
- (d) The information described in section 19 of this act.

2. The Board may revise or rescind a ~~recommended~~ *mandatory* upper payment limit imposed pursuant to this section if, after conducting a review pursuant to section 19 of this act, it determines that conditions warrant the revision or rescinding of the upper payment limit, as applicable.

3. The Board shall collaborate with the Council, manufacturers, health carriers, consumers of prescription drugs and other interested persons to:

- (a) Establish and refine a methodology to for prescribing upper payment limits pursuant to this section; and
- (b) Improve the quality and quantity of information received by the Board pursuant to section 20 of this act.

**Sec. 36.** Section 31 of this act is hereby amended to read as follows:

Sec. 31. 1. Except as otherwise provided in subsection 2, the Department shall directly manage, direct and coordinate all payments and rebates for prescription drugs and



all other services and payments relating to the provision of prescription drugs under the State Plan for Medicaid and the Children's Health Insurance Program.

2. The Department may enter into a contract with a pharmacy benefit manager for the provision of any services described in subsection 1. Such a contract must require the pharmacy benefit manager to disclose to the Department any information relating to the services covered by the contract, including, without limitation, information concerning dispensing fees, measures for the control of costs, rebates collected and paid and any fees and charges imposed by the pharmacy benefit manager pursuant to the contract.

3. *The Department shall not pay an amount for the prescription drug distributed pursuant to Medicaid or the Children's Health Insurance Program that exceeds any upper payment limit prescribed for that drug pursuant to section 21 of this act. For the purposes of this subsection, the amount paid for a prescription drug means the price paid for the drug, less any rebates received by the Department.*

4. As used in this section, "pharmacy benefit manager" has the meaning ascribed to it in NRS 683A.174.

**Sec. 37.** 1. As soon as practicable after July 1, 2019:

(a) The Governor and the Majority Leader of the Senate shall appoint to the Prescription Drug Affordability Board:

(1) The regular members described in paragraphs (a) and (b), respectively, of subsection 1 of section 12 of this act to terms of 2 years; and



(2) The alternate members described in paragraphs (a) and (b), respectively, of subsection 2 of section 12 of this act to terms of 4 years.

(b) The Speaker of the Assembly, the Attorney General and the Majority Leader of the Senate and Speaker of the Assembly shall appoint to the Prescription Drug Affordability Board the regular members described in paragraphs (c), (d) and (e), respectively, of subsection 1 of section 12 of this act to terms of 4 years.

(c) The Speaker of the Assembly shall appoint to the Prescription Drug Affordability Board the alternate member described in paragraph (c) of subsection 2 of section 12 of this act to a term of 2 years.

2. As used in this section, “Prescription Drug Affordability Board” means the Prescription Drug Affordability Board established by section 12 of this act.

**Sec. 38.** 1. As soon as practicable after July 1, 2019:

(a) The Speaker of the Assembly shall appoint to the Prescription Drug Affordability Stakeholder Council:

(1) The members described in paragraphs (a), (b) and (c) of subsection 2 of section 15 of this act to terms of 1 year;

(2) The member described in paragraph (d) of subsection 2 of section 15 of this act and one member described in paragraph (e) of subsection 2 of section 15 of this act to terms of 2 years; and



(3) One member described in paragraph (e) of subsection 2 of section 15 of this act and the member described in paragraph (f) of subsection 2 of section 15 of this act to terms of 3 years.

(b) The Majority Leader of the Senate shall appoint to the Prescription Drug Affordability Stakeholder Council:

(1) The members described in paragraphs (a) and (g) of subsection 3 of section 15 of this act to terms of 1 year;

(2) The members described in paragraphs (b), (c) and (d) of subsection 3 of section 15 of this act to terms of 2 years; and

(3) The members described in paragraphs (e) and (f) of subsection 3 of section 15 of this act to terms of 3 years.

(c) The Governor shall appoint to the Prescription Drug Affordability Stakeholder Council:

(1) The members described in paragraphs (a) and (b) of subsection 3 of section 15 of this act to terms of 1 year;

(2) The members described in paragraphs (c) and (g) of subsection 3 of section 15 of this act to terms of 2 years; and

(3) The members described in paragraphs (d), (e) and (f) of subsection 3 of section 15 of this act to terms of 3 years.

2. As used in this section, “Prescription Drug Affordability Stakeholder Council” means the Prescription Drug Affordability Stakeholder Council established by section 15 of this act.



**Sec. 39.** 1. For each prescription drug for which the Prescription Drug Affordability Board has adopted a recommended upper payment limit pursuant to section 21 of this act, as that section existed on December 31, 2023, the Board shall, as soon as practicable after January 1, 2024:

(a) Conduct a review of the price of the prescription drug pursuant to section 19 of this act to consider any new information concerning the price of the prescription drug; and

(b) If the Board determines that the price of the prescription drug is creating significant challenges for health carriers and patients in this State on the date of the review, prescribe a mandatory upper payment limit for the prescription drug in accordance with the provisions of section 21 of this act, as amended by section 35 of this act.

2. As used in this section:

(a) “Health carrier” has the meaning ascribed to it in section 7 of this act.

(b) “Prescription Drug Affordability Board” means the Prescription Drug Affordability Board established by section 12 of this act.

(c) “Upper payment limit” has the meaning ascribed to it in section 10 of this act.

**Sec. 40.** The amendatory provisions of sections 29 to 35, inclusive, of this act apply to any contract or other agreement entered into before, on or after January 1, 2024.

**Sec. 41.** The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

**Sec. 42.** 1. This section and sections 1 to 28, inclusive, 31, 34, 37, 38, 40 and 41 of this act become effective on July 1, 2019.



2. Sections 29, 30, 32, 33, 35, 36 and 39 of this act become effective on January 1, 2024.

