

ASSEMBLY BILL NO. 434—COMMITTEE ON
HEALTH AND HUMAN SERVICES

MARCH 27, 2023

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing prescription drugs.
(BDR 57-652)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to prescription drugs; prohibiting certain pharmacy benefit managers and health carriers from taking certain actions against entities that participate in a federal program to facilitate the discounted purchase of prescription drugs; prohibiting a program administered by the Department of Health and Human Services to provide therapeutics to persons with human immunodeficiency virus from taking similar actions; imposing certain limitations on the use of money available to administer the program to provide therapeutics to persons with human immunodeficiency virus; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing federal law creates a program, known as the 340B Program, by which
2 certain hospitals and other facilities that provide health care to low-income patients
3 are able to purchase certain drugs at discounted rates. (42 U.S.C. § 256b) Existing
4 law prohibits a pharmacy benefit manger from prohibiting a pharmacist or
5 pharmacy from taking certain actions to assist a person in obtaining a less
6 expensive alternative or generic drug. (NRS 683A.179) Existing law imposes
7 certain requirements relating to the operation of health carriers. (NRS 687B.470-
8 687B.850) **Sections 1, 3, 6 and 7** of this bill prohibit pharmacy benefit managers
9 and health carriers, including governmental entities that provide coverage for
10 employees, from: (1) discriminating against a covered entity that participates in the
11 340B Program to purchase drugs at a discounted rate or a pharmacy that contracts
12 with such an entity with regard to reimbursement; (2) taking certain actions to limit
13 the ability of such an entity or pharmacy to receive the full benefit of participating
14 in that program; (3) excluding such an entity or pharmacy from an insurance



15 network because the entity or pharmacy participates in that program; (4) restricting
16 the ability of a person to receive a 340B drug; or (5) taking certain other actions to
17 limit the participation of an entity or pharmacy in the Program. **Section 1** exempts
18 from those prohibitions a pharmacy benefit manager that manages prescription drug
19 benefits under Medicaid where reimbursement is provided on a fee-for-service
20 basis. **Sections 2, 4 and 5** of this bill make conforming changes to indicate the
21 proper placement of **sections 1 and 3** in the Nevada Revised Statutes.

22 Existing law authorizes the Department of Health and Human Services to
23 administer a program pursuant to federal law to provide therapeutics to treat certain
24 persons who have been diagnosed with the human immunodeficiency virus. (NRS
25 439.529) **Section 9** of this bill prescribes certain limitations on the use of money
26 allocated to the program. **Section 8** of this bill requires the program to take certain
27 actions and refrain from certain activity to ensure that a covered provider that
28 participates in the 340B Program to purchase drugs at a discounted rate or a
29 pharmacy that contracts with such a provider receives the full benefit of
30 participating in the Program. **Section 8** additionally prohibits the program
31 administered by the Department from: (1) denying a request from such a covered
32 provider or contract pharmacy to participate in the network of the program in
33 certain circumstances; or (2) engaging in certain discrimination against a covered
34 provider or contract pharmacy.

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

1 **Section 1.** Chapter 683A of NRS is hereby amended by
2 adding thereto a new section to read as follows:

3 ***1. A pharmacy benefit manager shall not:***

4 ***(a) Discriminate against a covered entity, a contract pharmacy***
5 ***or a 340B drug in the amount of reimbursement for any item or***
6 ***service or the procedures for obtaining such reimbursement;***

7 ***(b) Assess any fee, chargeback, clawback or adjustment***
8 ***against a covered entity or contract pharmacy on the basis that the***
9 ***covered entity or contract pharmacy dispenses a 340B drug or***
10 ***otherwise limit the ability of a covered entity or contract pharmacy***
11 ***to receive the full benefit of purchasing the 340B drug at or below***
12 ***the ceiling price, as calculated pursuant to 42 U.S.C. § 256b(a)(1);***

13 ***(c) Exclude a covered entity or contract pharmacy from any***
14 ***network because the covered entity or contract pharmacy***
15 ***dispenses a 340B drug;***

16 ***(d) Restrict the ability of a person to receive a 340B drug,***
17 ***including, without limitation, by imposing a copayment,***
18 ***coinsurance, deductible or other cost-sharing obligation on the***
19 ***drug that is different from a similar drug on the basis that the***
20 ***drug is a 340B drug;***

21 ***(e) Restrict the methods by which a covered entity or contract***
22 ***pharmacy may dispense or deliver a 340B drug or the entity***
23 ***through which a covered entity may dispense or deliver such a***



1 *drug in a manner that does not apply to drugs that are not 340B*
2 *drugs; or*

3 *(f) Prohibit a covered entity or contract pharmacy from*
4 *purchasing a 340B drug or interfere with the ability of a covered*
5 *entity or contract pharmacy to purchase a 340B drug.*

6 *2. This section does not apply to a pharmacy benefit manager*
7 *that has entered into a contract with the Department of Health*
8 *and Human Services pursuant to NRS 422.4053 when the*
9 *pharmacy benefit manager is managing prescription drug benefits*
10 *under Medicaid where reimbursement is provided on a fee-for-*
11 *service basis.*

12 *3. As used in this section:*

13 *(a) "340B drug" means a prescription drug that is purchased*
14 *by a covered entity under the 340B Program.*

15 *(b) "340B Program" means the drug pricing program*
16 *established by the United States Secretary of Health and Human*
17 *Services pursuant to section 340B of the Public Health Service*
18 *Act, 42 U.S.C. § 256b, as amended.*

19 *(c) "Contract pharmacy" means a pharmacy that enters into a*
20 *contract with a covered entity to dispense 340B drugs and provide*
21 *related pharmacy services to the patients of the covered entity.*

22 *(d) "Covered entity" has the meaning ascribed to it in 42*
23 *U.S.C. § 256b(a)(4).*

24 *(e) "Network" means a defined set of providers of health care*
25 *who are under contract with a pharmacy benefit manager or third*
26 *party to provide health care services to covered persons.*

27 **Sec. 2.** NRS 683A.171 is hereby amended to read as follows:

28 683A.171 As used in NRS 683A.171 to 683A.179, inclusive,
29 *and section 1 of this act*, unless the context otherwise requires, the
30 words and terms defined in NRS 683A.172 to 683A.176, inclusive,
31 have the meanings ascribed to them in those sections.

32 **Sec. 3.** Chapter 687B of NRS is hereby amended by adding
33 thereto a new section to read as follows:

34 *1. A health carrier shall not:*

35 *(a) Discriminate against a covered entity, a contract pharmacy*
36 *or a 340B drug in the amount of reimbursement for any item or*
37 *service or the procedures for obtaining such reimbursement;*

38 *(b) Assess any fee, chargeback, clawback or adjustment*
39 *against a covered entity or contract pharmacy on the basis that the*
40 *covered entity or contract pharmacy dispenses a 340B drug or*
41 *otherwise limit the ability of a covered entity or contract pharmacy*
42 *to receive the full benefit of purchasing the 340B drug at or below*
43 *the ceiling price, as calculated pursuant to 42 U.S.C. § 256b(a)(1);*



1 (c) *Exclude a covered entity or contract pharmacy from any*
2 *network because the covered entity or contract pharmacy*
3 *dispenses a 340B drug;*

4 (d) *Restrict the ability of a person to receive a 340B drug,*
5 *including, without limitation, by imposing a copayment,*
6 *coinsurance, deductible or other cost-sharing obligation on the*
7 *drug that is different from a similar drug on the basis that the*
8 *drug is a 340B drug;*

9 (e) *Restrict the methods by which a covered entity or contract*
10 *pharmacy may dispense or deliver a 340B drug or the entity*
11 *through which a covered entity may dispense or deliver such a*
12 *drug in a manner that does not apply to drugs that are not 340B*
13 *drugs; or*

14 (f) *Prohibit a covered entity or contract pharmacy from*
15 *purchasing a 340B drug or interfere with the ability of a covered*
16 *entity or contract pharmacy to purchase a 340B drug.*

17 2. *As used in this section:*

18 (a) *“340B drug” means a prescription drug that is purchased*
19 *by a covered entity under the 340B Program.*

20 (b) *“340B Program” means the drug pricing program*
21 *established by the United States Secretary of Health and Human*
22 *Services pursuant to section 340B of the Public Health Service*
23 *Act, 42 U.S.C. § 256b, as amended.*

24 (c) *“Contract pharmacy” means a pharmacy that enters into a*
25 *contract with a covered entity to dispense 340B drugs and provide*
26 *related pharmacy services to the patients of the covered entity.*

27 (d) *“Covered entity” has the meaning ascribed to it in 42*
28 *U.S.C. § 256b(a)(4).*

29 **Sec. 4.** NRS 687B.600 is hereby amended to read as follows:

30 687B.600 As used in NRS 687B.600 to 687B.850, inclusive,
31 *and section 3 of this act*, unless the context otherwise requires, the
32 words and terms defined in NRS 687B.602 to 687B.665, inclusive,
33 have the meanings ascribed to them in those sections.

34 **Sec. 5.** NRS 687B.670 is hereby amended to read as follows:

35 687B.670 If a health carrier offers or issues a network plan, the
36 health carrier shall, with regard to that network plan:

37 1. Comply with all applicable requirements set forth in NRS
38 687B.600 to 687B.850, inclusive **[§]**, *and section 3 of this act*;

39 2. As applicable, ensure that each contract entered into for the
40 purposes of the network plan between a participating provider of
41 health care and the health carrier complies with the requirements set
42 forth in NRS 687B.600 to 687B.850, inclusive **[§]**, *and section 3 of*
43 *this act*; and



1 3. As applicable, ensure that the network plan complies with
2 the requirements set forth in NRS 687B.600 to 687B.850, inclusive
3 **⌘**, *and section 3 of this act.*

4 **Sec. 6.** NRS 287.010 is hereby amended to read as follows:

5 287.010 1. The governing body of any county, school
6 district, municipal corporation, political subdivision, public
7 corporation or other local governmental agency of the State of
8 Nevada may:

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

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

24 (c) Provide group life, accident or health coverage through a
25 self-insurance reserve fund and, where necessary, deduct
26 contributions to the maintenance of the fund from the compensation
27 of officers and employees and pay the deductions into the fund. The
28 money accumulated for this purpose through deductions from the
29 compensation of officers and employees and contributions of
30 the governing body must be maintained as an internal service fund
31 as defined by NRS 354.543. The money must be deposited in a state
32 or national bank or credit union authorized to transact business in
33 the State of Nevada. Any independent administrator of a fund
34 created under this section is subject to the licensing requirements of
35 chapter 683A of NRS, and must be a resident of this State. Any
36 contract with an independent administrator must be approved by the
37 Commissioner of Insurance as to the reasonableness of
38 administrative charges in relation to contributions collected and
39 benefits provided. The provisions of NRS 686A.135, 687B.352,
40 687B.408, 687B.723, 687B.725, 689B.030 to 689B.050, inclusive,
41 689B.265, 689B.287 and 689B.500 *and section 3 of this act* apply
42 to coverage provided pursuant to this paragraph, except that the
43 provisions of NRS 689B.0378, 689B.03785 and 689B.500 only
44 apply to coverage for active officers and employees of the
45 governing body, or the dependents of such officers and employees.



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

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

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

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

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

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

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

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

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

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

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



1 **Sec. 7.** NRS 287.04335 is hereby amended to read as follows:

2 287.04335 If the Board provides health insurance through a
3 plan of self-insurance, it shall comply with the provisions of NRS
4 686A.135, 687B.352, 687B.409, 687B.723, 687B.725, 689B.0353,
5 689B.255, 695C.1723, 695G.150, 695G.155, 695G.160, 695G.162,
6 695G.1635, 695G.164, 695G.1645, 695G.1665, 695G.167,
7 695G.1675, 695G.170 to 695G.174, inclusive, 695G.176, 695G.177,
8 695G.200 to 695G.230, inclusive, 695G.241 to 695G.310, inclusive,
9 and 695G.405, *and section 3 of this act*, in the same manner as an
10 insurer that is licensed pursuant to title 57 of NRS is required to
11 comply with those provisions.

12 **Sec. 8.** Chapter 439 of NRS is hereby amended by adding
13 thereto a new section to read as follows:

14 1. *If the Department administers a program pursuant to*
15 *NRS 439.529:*

16 (a) *The program may not prohibit or interfere with the ability*
17 *of a covered provider or contract pharmacy to purchase,*
18 *administer or dispense, as applicable, a 340B drug, regardless of*
19 *whether the drug is dispensed or administered to a person*
20 *participating in the program or whether the program pays all, part*
21 *or none of the cost of the drug.*

22 (b) *When a covered provider or contract pharmacy dispenses*
23 *or administers a drug that is eligible to be a 340B drug to a person*
24 *participating in the program and the program pays the insurance*
25 *premium of the person and the copayment, coinsurance,*
26 *deductible or other cost-sharing obligation of the person, the*
27 *program shall pay to the covered provider or contract pharmacy*
28 *the full amount of the copayment, coinsurance, deductible or*
29 *other cost-sharing obligation, regardless of whether the drug is a*
30 *340B drug.*

31 (c) *The program may not deny a request from a covered*
32 *provider or contract pharmacy to be included in the network of the*
33 *program if the covered provider or contract pharmacy:*

34 (1) *Meets the terms and conditions for participation in the*
35 *network of the program; and*

36 (2) *Requests to participate in the network of the program.*

37 (d) *The program shall not treat a covered provider or contract*
38 *pharmacy differently from an entity that does not participate in the*
39 *340B Program or a pharmacy that has contracted with a covered*
40 *provider, as applicable, in any manner, including, without*
41 *limitation:*

42 (1) *In any regulation, guidance, policy, procedure or*
43 *contract;*

44 (2) *With regard to participation in the network of the*
45 *program; or*



1 (3) *In any matter relating to the dispensing of drugs or*
2 *billing and reimbursement for drugs.*

3 2. *As used in this section:*

4 (a) *“340B drug” means a prescription drug that is purchased*
5 *under the 340B Program.*

6 (b) *“340B Program” means the drug pricing program*
7 *established by the United States Secretary of Health and Human*
8 *Services pursuant to section 340B of the Public Health Service*
9 *Act, 42 U.S.C. § 256b, as amended.*

10 (c) *“Contract pharmacy” means a pharmacy that enters into a*
11 *contract with a covered provider to dispense 340B drugs and*
12 *provide related pharmacy services to the patients of the covered*
13 *provider.*

14 (d) *“Covered entity” has the meaning ascribed to it in 42*
15 *U.S.C. § 256b(a)(4).*

16 (e) *“Covered provider” means a covered entity other than the*
17 *program established pursuant to NRS 439.529.*

18 (f) *“Network” means a defined set of providers of health care*
19 *who are under contract with any program established pursuant to*
20 *NRS 439.529 to provide health care services to persons who*
21 *participate in the program.*

22 **Sec. 9.** NRS 439.529 is hereby amended to read as follows:

23 439.529 1. The Department may, to the extent that money is
24 available, administer a program pursuant to 42 U.S.C. §§ 300ff-21
25 et seq. to provide therapeutics to treat certain persons who have
26 been diagnosed with the human immunodeficiency virus and to
27 prevent the serious deterioration of the health of such persons. The
28 program may include the provision of subsidies and pharmaceutical
29 services.

30 2. The Director shall:

31 (a) Establish the criteria for eligibility for participation in the
32 program administered pursuant to this section, which must be in
33 accordance with the provisions of 42 U.S.C. §§ 300ff-21 et seq.; and

34 (b) Prescribe the manner in which the program will be
35 administered and services will be provided.

36 3. The Department may use any other program administered by
37 the Department to facilitate the provision of subsidies and services
38 pursuant to this section, including, without limitation, the provision
39 of subsidies for pharmaceutical services to senior citizens and
40 persons with disabilities pursuant to NRS 439.635 to 439.690,
41 inclusive. If the Department uses another program to facilitate the
42 provision of subsidies and services pursuant to this section, the
43 Department shall not commingle the money available to carry out
44 the provisions of this section and the money available to carry out
45 the other program.



1 4. Money available to carry out the provisions of this section
2 must be accounted for separately by the Department. *The*
3 *Department shall use such money only to pay for or subsidize the*
4 *cost of:*

5 (a) *Drugs approved by the United States Food and Drug*
6 *Administration;*

7 (b) *Insurance premiums, deductibles, copayments,*
8 *coinsurance or other cost-sharing obligations associated with*
9 *private health insurance; and*

10 (c) *Services that improve access to, adherence to and*
11 *monitoring of drug treatment.*

12 **Sec. 10.** 1. This section becomes effective upon passage and
13 approval.

14 2. Sections 1 to 9, inclusive, of this act become effective:

15 (a) Upon passage and approval for the purpose of adopting any
16 regulations and performing any other preparatory administrative
17 tasks that are necessary to carry out the provisions of this act; and

18 (b) On January 1, 2024, for all other purposes.



