

SENATE BILL NO. 262—SENATORS CANCELA, RATTI, CANNIZZARO,
PARKS; BROOKS, DONDERO LOOP, HARRIS, OHRENSCHALL,
SCHEIBLE, SPEARMAN AND WOODHOUSE

MARCH 12, 2019

Referred to Committee on Health and Human Services

SUMMARY—Makes various changes to provide for tracking and reporting of information concerning the pricing of prescription drugs for treating asthma. (BDR 40-55)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

~

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

AN ACT relating to prescription drugs; making various changes to provide for tracking and reporting of information concerning the pricing of prescription drugs for treating asthma; requiring certain insurers to provide certain notice concerning those drugs to insureds; providing for an administrative penalty for failure to provide certain information concerning those drugs to the Department of Health and Human Services; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires the Department of Health and Human Services to
2 compile: (1) a list of prescription drugs that the Department determines to be
3 essential for treating diabetes in this State; and (2) a list of such prescription drugs
4 that have been subject to a significant price increase within the immediately
5 preceding 2 calendar years. (NRS 439B.630) Existing law requires the
6 manufacturer of a prescription drug included on the list of essential diabetes drugs
7 to submit to the Department an annual report that contains certain information
8 concerning the cost of the drug. (NRS 439B.635) Existing law additionally requires
9 the manufacturer of a drug included on the list of essential diabetes drugs that have
10 undergone a substantial cost increase to submit to the Department a report
11 concerning the reasons for the cost increase. (NRS 439B.640) Existing law requires
12 a pharmacy benefit manager to report certain information concerning essential
13 diabetes drugs to the Department. (NRS 439B.645) Existing law authorizes the
14 Department to impose an administrative penalty against a manufacturer, pharmacy
15 benefit manager, nonprofit organization or pharmaceutical sales representative who
16 fails to provide the required information. (NRS 439B.695) The Department is



17 required to analyze the information submitted by such manufacturers and compile a
18 report concerning the reasons for and effect of the pricing of essential diabetes
19 drugs. (NRS 439B.650) Existing law requires an insurer that offers or issues a
20 policy of individual health insurance and uses a formulary to provide, during each
21 open enrollment period, a notice of any drugs on the list of essential diabetes drugs
22 that have been removed from the formulary or will be removed from the formulary
23 during the current plan year or the next plan year. (NRS 689A.405)

24 This bill makes those provisions apply to drugs for treating asthma to the same
25 extent as drugs for treating diabetes. Additionally, **section 3** of this bill authorizes
26 the Department to use the money collected from administrative penalties for failure
27 to submit a required report to establish and carry out programs to provide education
28 concerning asthma and to prevent asthma.

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

1 **Section 1.** NRS 439B.630 is hereby amended to read as
2 follows:

3 439B.630 On or before February 1 of each year, the
4 Department shall compile:

5 1. A list of prescription drugs that the Department determines
6 to be essential for treating *asthma and* diabetes in this State and the
7 wholesale acquisition cost of each such drug on the list. The list
8 must include, without limitation, all forms of insulin and biguanides
9 marketed for sale in this State.

10 2. A list of prescription drugs described in subsection 1 that
11 have been subject to an increase in the wholesale acquisition cost of
12 a percentage equal to or greater than:

13 (a) The percentage increase in the Consumer Price Index,
14 Medical Care Component during the immediately preceding
15 calendar year; or

16 (b) Twice the percentage increase in the Consumer Price Index,
17 Medical Care Component during the immediately preceding 2
18 calendar years.

19 **Sec. 2.** NRS 439B.650 is hereby amended to read as follows:

20 439B.650 On or before June 1 of each year, the Department
21 shall analyze the information submitted pursuant to NRS 439B.635,
22 439B.640 and 439B.645 and compile a report on the price of the
23 prescription drugs that appear on the most current lists compiled by
24 the Department pursuant to NRS 439B.630, the reasons for any
25 increases in those prices and the effect of those prices on overall
26 spending on prescription drugs in this State. The report may include,
27 without limitation, opportunities for persons and entities in this State
28 to lower the cost of drugs for the treatment of *asthma and* diabetes
29 while maintaining access to such drugs.



Sec. 3. NRS 439B.695 is hereby amended to read as follows:

439B.695 1. If a pharmacy that is licensed under the provisions of chapter 639 of NRS and is located within the State of Nevada fails to provide to the Department the information required to be provided pursuant to NRS 439B.655 or fails to provide such information on a timely basis, and the failure was not caused by excusable neglect, technical problems or other extenuating circumstances, the Department may impose against the pharmacy an administrative penalty of not more than \$500 for each day of such failure.

2. If a manufacturer fails to provide to the Department the information required by NRS 439B.635, 439B.640 or 439B.660, a pharmacy benefit manager fails to provide to the Department the information required by NRS 439B.645, a nonprofit organization fails to post or provide to the Department, as applicable, the information required by NRS 439B.665 or a manufacturer, pharmacy benefit manager or nonprofit organization fails to post or provide, as applicable, such information on a timely basis, and the failure was not caused by excusable neglect, technical problems or other extenuating circumstances, the Department may impose against the manufacturer, pharmacy benefit manager or nonprofit organization, as applicable, an administrative penalty of not more than \$5,000 for each day of such failure.

3. If a pharmaceutical sales representative fails to comply with the requirements of NRS 439B.660, the Department may impose against the pharmaceutical sales representative an administrative penalty of not more than \$500 for each day of such failure.

4. Any money collected as administrative penalties pursuant to this section must be accounted for separately and used by the Department to establish and carry out programs to provide education concerning *asthma and* diabetes and prevent ~~[diabetes.]~~ *those diseases.*

Sec. 4. NRS 689A.405 is hereby amended to read as follows:

689A.405 1. An insurer that offers or issues a policy of health insurance which provides coverage for prescription drugs shall include with any summary, certificate or evidence of that coverage provided to an insured, notice of whether a formulary is used and, if so, of the opportunity to secure information regarding the formulary from the 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 (1) An explanation of:
2 (I) How often the contents of the formulary are reviewed;
3 and
4 (II) The procedure and criteria for determining which
5 prescription drugs are included in and excluded from the formulary;
6 and

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

9 2. If an insurer offers or issues a policy of health insurance
10 which provides coverage for prescription drugs and a formulary is
11 used, the insurer shall:

12 (a) Provide to any insured or participating provider of health
13 care, upon request:

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

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

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

25 (c) During each period for open enrollment, publish on an
26 Internet website that is operated by the insurer and accessible to the
27 public or include in any enrollment materials distributed by the
28 insurer a notice of all prescription drugs that:

29 (1) Are included on the most recent list of drugs that are
30 essential for treating *asthma and* diabetes in this State compiled by
31 the Department of Health and Human Services pursuant to
32 subsection 1 of NRS 439B.630; and

33 (2) Have been removed or will be removed from the
34 formulary during the current plan year or the next plan year.

35 (d) Update the notice required by paragraph (c) throughout the
36 period for open enrollment.

37 **Sec. 5.** This act becomes effective:

38 1. Upon passage and approval for the purpose of adopting any
39 regulations and performing any other preparatory administrative
40 tasks that are necessary to carry out the provisions of this act; and

41 2. On October 1, 2019, for all other purposes.

