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S.B. 539

EMERGENCY REQUEST OF SENATE MINORITY LEADER

SENATE BILL NO. 539—SENATORS ROBERSON, GANSERT,
KIECKHEFER, HARRIS, HARDY; GOICOECHEA, GUSTAVSON,
HAMMOND AND SETTELMAYER

MAY 16, 2017

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to prescription drugs.
(BDR 40-1217)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
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; requiring the Department of Health and Human Services to compile a list of certain prescription drugs that are used to treat diabetes; requiring the manufacturer of a drug included on the list to provide certain information to the Department; requiring the Department to compile a report based on such information; providing that certain information does not constitute a trade secret; requiring a pharmacy benefit manager to obtain a license from the Commissioner of Insurance; imposing certain requirements on a pharmacy benefit manager; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires the organization with the largest membership in this State
2 which represents the interests of retail merchants to prepare a list of not less than
3 100 prescription drugs most commonly prescribed to residents of this State. (NRS
4 439.905) Existing law also requires the Department of Health and Human Services
5 to place on the Internet website maintained by the Department certain information
6 reported by pharmacies concerning the prices charged by the pharmacies for drugs
7 that appear on that list. (NRS 439.915) **Section 4** of this bill requires the



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8 Department to compile a list of prescription drugs that: (1) are used to treat
9 diabetes; and (2) have been subject to a significant price increase within the
10 immediately preceding 2 calendar years. **Section 4** requires the manufacturer of a
11 drug included on that list to submit to the Department a report concerning the
12 reasons for the cost increase. **Section 4** requires the Department to analyze the
13 information submitted by such manufacturers and compile a report concerning
14 the reasons for and effect of the increases in the price of prescription drugs used to
15 treat diabetes. **Section 6** of this bill requires the Department to place the report on
16 the Internet website maintained by the Department. **Section 8** of this bill authorizes
17 the Department to impose an administrative penalty against any manufacturer that
18 fails to report the information required by **section 4**. **Sections 5 and 7** of this bill
19 make conforming changes.

20 Existing law requires certain persons engaged in business relating to insurance
21 to be licensed by the Commissioner of Insurance. (NRS 683A.090, 683A.201)
22 **Section 18** of this bill additionally requires a pharmacy benefit manager to be
23 licensed by the Commissioner. **Section 18** also authorizes the Commissioner to
24 adopt regulations governing the management of prescription drug coverage by a
25 pharmacy benefit manager. **Section 19** of this bill provides that a pharmacy benefit
26 manager has a fiduciary duty to an insurer with which the pharmacy benefit
27 manager has entered into a contract to manage prescription drug coverage. **Section**
28 **19** also requires a pharmacy benefit manager to provide to such an insurer a certain
29 percentage of the rebates issued by a manufacturer to the pharmacy benefit
30 manager for the sale to an insured person of a prescription drug used to treat
31 diabetes.

32 **Section 20** of this bill prohibits a pharmacy benefit manager from engaging in
33 certain trade practices.

34 **Section 21** of this bill requires a pharmacy benefit manager to post certain
35 information on the Internet website maintained by the pharmacy benefit manager
36 and report certain information to the Division of Insurance of the Department of
37 Business and Industry. **Section 9** of this bill provides that any such information
38 required to be posted or reported is not a trade secret.

39 Federal law prohibits states from regulating an employee benefit plan
40 established under the Employee Retirement Income Security Act of 1974. (29
41 U.S.C. § 1144) **Section 17** of this bill provides that the requirements that this bill
42 imposes upon pharmacy benefit managers and insurers do not apply to the
43 management or provision of prescription drug benefits included in such a plan.
44 **Sections 23-25** of this bill impose certain requirements relating to the collection of
45 child support from a pharmacy benefit manager who is a natural person. **Section 26**
46 of this bill authorizes the Commissioner to impose disciplinary action against a
47 pharmacy benefit manager that violates such requirements. Additionally, a violation
48 of those requirements is punishable as a misdemeanor. (NRS 679A.180)

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

1 **Section 1.** Chapter 439 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2, 3 and 4 of this act.

3 **Sec. 2.** *“Manufacturer” has the meaning ascribed to it in*
4 *NRS 639.009.*

5 **Sec. 3.** *“Pharmacy” means every store or shop licensed by*
6 *the State Board of Pharmacy where drugs, controlled substances,*
7 *poisons, medicines or chemicals are stored or possessed, or*



1 *dispensed or sold at retail, or displayed for sale at retail, or where*
2 *prescriptions are compounded or dispensed. The term does not*
3 *include an institutional pharmacy as defined in NRS 639.0085.*

4 **Sec. 4.** 1. *On or before February 1 of each year, the*
5 *Department shall compile a list of all prescription drugs used to*
6 *treat diabetes that meet the requirements of subsection 2. When*
7 *determining which drugs to include on the list, the Department*
8 *shall consider any rebates, discounts or other reductions in the*
9 *price of the drug.*

10 2. *Each prescription drug included on the list compiled*
11 *pursuant to subsection 1 must have been subject to an increase in*
12 *the wholesale acquisition cost of the drug of a percentage equal to*
13 *or greater than:*

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

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

20 3. *On or before July 1 of a year in which a drug is included*
21 *on the list compiled pursuant to subsection 1, the manufacturer of*
22 *the drug shall submit to the Department a report describing the*
23 *reasons for the increase in the wholesale acquisition cost of the*
24 *drug described in subsection 2. The report must include, without*
25 *limitation:*

26 (a) *A list of each factor that has contributed to the increase;*

27 (b) *The percentage of the total increase that is attributable to*
28 *each factor;*

29 (c) *An explanation of the role of each factor in the increase;*
30 *and*

31 (d) *Any other information prescribed by regulation by the*
32 *Department.*

33 4. *On or before September 1 of each year, the Department*
34 *shall analyze the information submitted pursuant to subsection 3*
35 *and compile a report of the reasons for increases in the price of*
36 *prescription drugs used to treat diabetes and the effect of those*
37 *price increases on the cost to the residents of this State.*

38 5. *As used in this section, "wholesale acquisition cost" means*
39 *the manufacturer's list price for a prescription drug to wholesalers*
40 *or direct purchasers in the United States, not including any*
41 *discounts, rebates or reductions in price, as reported in wholesale*
42 *price guides or other publications of drug pricing data.*

43 **Sec. 5.** NRS 439.900 is hereby amended to read as follows:

44 439.900 As used in NRS 439.900 to 439.940, inclusive, *and*
45 *sections 2, 3 and 4 of this act*, unless the context otherwise requires,



1 ~~["pharmacy" means every store or shop licensed by the State Board~~
2 ~~of Pharmacy where drugs, controlled substances, poisons, medicines~~
3 ~~or chemicals are stored or possessed, or dispensed or sold at retail,~~
4 ~~or displayed for sale at retail, or where prescriptions are~~
5 ~~compounded or dispensed. The term does not include an~~
6 ~~institutional pharmacy as defined in NRS 639.0085.]~~ *the words and*
7 *terms defined in sections 2 and 3 of this act have the meanings*
8 *ascribed to them in those sections.*

9 **Sec. 6.** NRS 439.915 is hereby amended to read as follows:

10 439.915 1. Except as otherwise provided in subsection 2, the
11 Department shall:

12 (a) Place or cause to be placed on the Internet website
13 maintained by the Department the information provided by each
14 pharmacy pursuant to NRS 439.910 ~~and~~ *and the report compiled by*
15 *the Department pursuant to section 4 of this act;*

16 (b) Ensure that the information provided by each pharmacy
17 pursuant to NRS 439.910 and placed on the Internet website
18 maintained by the Department is organized so that each individual
19 pharmacy has its own separate entry on that website; and

20 (c) Ensure that the usual and customary price that each
21 pharmacy charges for each prescription drug that is on the list
22 prepared pursuant to NRS 439.905 and that is stocked by the
23 pharmacy:

24 (1) Is presented on the Internet website maintained by the
25 Department in a manner which complies with the requirements of
26 NRS 439.920; and

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

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

34 2. If a pharmacy is part of a larger company or corporation or a
35 chain of pharmacies or retail stores, the Department may present the
36 pricing information pertaining to such a pharmacy in such a manner
37 that the pricing information is combined with the pricing
38 information relative to other pharmacies that are part of the same
39 company, corporation or chain, to the extent that the pricing
40 information does not differ among those pharmacies.

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



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

5 4. As used in this section, "usual and customary price" means

6 the usual and customary charges that a provider charges to the

7 general public for a drug, as described in 42 C.F.R. § ~~447.331~~

8 **447.512**.

9 **Sec. 7.** NRS 439.930 is hereby amended to read as follows:

10 439.930 The Department shall adopt such regulations as it

11 determines to be necessary or advisable to carry out the provisions

12 of NRS 439.900 to 439.940, inclusive ~~4~~, **and sections 2, 3 and 4**

13 **of this act**. Such regulations must provide for, without limitation:

14 1. Notice to consumers stating that:

15 (a) Although the Department will strive to ensure that

16 consumers receive accurate information regarding pharmacies,

17 including, without limitation, the prices charged by those

18 pharmacies for the prescription drugs and generic equivalents that

19 are on the list prepared pursuant to NRS 439.905, the Department is

20 unable to guarantee the accuracy of such information;

21 (b) If a consumer follows an Internet link from the Internet

22 website maintained by the Department to an Internet website

23 maintained by a pharmacy, the Department is unable to guarantee

24 the accuracy of any information made available on the Internet

25 website maintained by the pharmacy; and

26 (c) The Department advises consumers to contact a pharmacy

27 directly to verify the accuracy of any information regarding the

28 pharmacy which is made available to consumers pursuant to NRS

29 439.900 to 439.940, inclusive ~~4~~, **and sections 2, 3 and 4 of this**

30 **act**;

31 2. Procedures adopted to direct consumers who have questions

32 regarding the program described in NRS 439.900 to 439.940,

33 inclusive, **and sections 2, 3 and 4 of this act** to contact the Office

34 for Consumer Health Assistance of the Department;

35 3. Provisions in accordance with which the Department will

36 allow an Internet link to the information provided by each pharmacy

37 pursuant to NRS 439.910 and made available on the Department's

38 Internet website to be placed on other Internet websites managed or

39 maintained by other persons and entities, including, without

40 limitation, Internet websites managed or maintained by:

41 (a) Other governmental entities, including, without limitation,

42 the State Board of Pharmacy and the Office of the Governor; and

43 (b) Nonprofit organizations and advocacy groups;

44 4. Procedures pursuant to which consumers and pharmacies

45 may report to the Department that information made available to



1 consumers pursuant to NRS 439.900 to 439.940, inclusive, *and*
2 *sections 2, 3 and 4 of this act* is inaccurate;

3 5. The form and manner in which pharmacies are to provide to
4 the Department the information described in NRS 439.910; and

5 6. Standards and criteria pursuant to which the Department
6 may remove from its Internet website information regarding a
7 pharmacy or an Internet link to the Internet website maintained by a
8 pharmacy, or both, if the Department determines that the pharmacy
9 has:

10 (a) Ceased to be licensed and in good standing pursuant to
11 chapter 639 of NRS; or

12 (b) Engaged in a pattern of providing to consumers information
13 that is false or would be misleading to reasonably informed persons.

14 **Sec. 8.** NRS 439.940 is hereby amended to read as follows:

15 439.940 If a pharmacy that is licensed under the provisions of
16 chapter 639 of NRS and is located within the State of Nevada *or a*
17 *manufacturer that does business in this State* fails to provide to the
18 Department the information required to be provided pursuant to
19 NRS 439.910 or fails to provide such information on a timely basis,
20 and the failure was not caused by excusable neglect, technical
21 problems or other extenuating circumstances, the Department may
22 impose against the pharmacy *or manufacturer* an administrative
23 penalty of not more than \$500 for each day of such failure.

24 **Sec. 9.** NRS 600A.030 is hereby amended to read as follows:

25 600A.030 As used in this chapter, unless the context otherwise
26 requires:

27 1. "Improper means" includes, without limitation:

28 (a) Theft;

29 (b) Bribery;

30 (c) Misrepresentation;

31 (d) Willful breach or willful inducement of a breach of a duty to
32 maintain secrecy;

33 (e) Willful breach or willful inducement of a breach of a duty
34 imposed by common law, statute, contract, license, protective order
35 or other court or administrative order; and

36 (f) Espionage through electronic or other means.

37 2. "Misappropriation" means:

38 (a) Acquisition of the trade secret of another by a person by
39 improper means;

40 (b) Acquisition of a trade secret of another by a person who
41 knows or has reason to know that the trade secret was acquired by
42 improper means; or

43 (c) Disclosure or use of a trade secret of another without express
44 or implied consent by a person who:



1 (1) Used improper means to acquire knowledge of the trade
2 secret;

3 (2) At the time of disclosure or use, knew or had reason to
4 know that his or her knowledge of the trade secret was:

5 (I) Derived from or through a person who had used
6 improper means to acquire it;

7 (II) Acquired under circumstances giving rise to a duty to
8 maintain its secrecy or limit its use; or

9 (III) Derived from or through a person who owed a duty
10 to the person seeking relief to maintain its secrecy or limit its use; or

11 (3) Before a material change of his or her position, knew or
12 had reason to know that it was a trade secret and that knowledge of
13 it had been acquired by accident or mistake.

14 3. "Owner" means the person who holds legal or equitable title
15 to a trade secret.

16 4. "Person" means a natural person, corporation, business trust,
17 estate, trust, partnership, association, joint venture, government,
18 governmental subdivision or agency, or any other legal or
19 commercial entity.

20 5. "Trade secret" ~~means~~ :

21 (a) *Means* information, including, without limitation, a formula,
22 pattern, compilation, program, device, method, technique, product,
23 system, process, design, prototype, procedure, computer
24 programming instruction or code that:

25 ~~(a)~~ (1) Derives independent economic value, actual or
26 potential, from not being generally known to, and not being readily
27 ascertainable by proper means by the public or any other persons
28 who can obtain commercial or economic value from its disclosure or
29 use; and

30 ~~(b)~~ (2) Is the subject of efforts that are reasonable under the
31 circumstances to maintain its secrecy.

32 (b) *Does not include any information that a manufacturer is*
33 *required to report pursuant to section 4 of this act or information*
34 *that a pharmacy benefit manager is required to post or report*
35 *pursuant to section 21 of this act, to the extent that such*
36 *information is required to be disclosed by those sections.*

37 **Sec. 10.** Chapter 683A of NRS is hereby amended by adding
38 thereto the provisions set forth as sections 11 to 21, inclusive, of this
39 act.

40 **Sec. 11.** *"Pharmacy benefit manager" means an entity that*
41 *contracts with or is employed by a third party, as defined in section*
42 *16 of this act, and manages the pharmacy benefits plan, as defined*
43 *in section 15 of this act, provided by the third party.*

44 **Sec. 12.** *As used in sections 12 to 21, inclusive, of this act,*
45 *unless the context otherwise requires, the words and terms defined*



1 *in sections 13 to 16, inclusive, of this act have the meanings*
2 *ascribed to them in those sections.*

3 **Sec. 13.** *“Covered person” means a person who is covered by*
4 *a pharmacy benefits plan.*

5 **Sec. 14.** *“Pharmacy” has the meaning ascribed to it in*
6 *NRS 639.012.*

7 **Sec. 15.** *“Pharmacy benefits plan” means coverage of*
8 *prescription drugs provided by a third party.*

9 **Sec. 16.** *“Third party” means:*

10 1. *An insurer, as that term is defined in NRS 679B.540;*

11 2. *A health benefit plan, as that term is defined in NRS*
12 *689A.540, for employees which provides a pharmacy benefits*
13 *plan;*

14 3. *A participating public agency, as that term is defined in*
15 *NRS 287.04052, and any other local governmental agency of the*
16 *State of Nevada which provides a system of health insurance for*
17 *the benefit of its officers and employees, and the dependents of*
18 *officers and employees, pursuant to chapter 287 of NRS; or*

19 4. *Any other insurer or organization that provides health*
20 *coverage or benefits or coverage of prescription drugs as part of*
21 *workers’ compensation insurance in accordance with state or*
22 *federal law.*

23 *↳ The term does not include an insurer that provides coverage*
24 *under a policy of casualty or property insurance.*

25 **Sec. 17.** *The requirements of sections 12 to 21, inclusive, of*
26 *this act and any regulations adopted by the Commissioner*
27 *pursuant thereto do not apply to the coverage of prescription drugs*
28 *under a plan that is subject to the Employee Retirement Income*
29 *Security Act of 1974 or any information relating to such coverage.*

30 **Sec. 18.** 1. *A pharmacy benefit manager shall not operate*
31 *in this State unless the pharmacy benefit manager has obtained a*
32 *license from the Commissioner.*

33 2. *A person who wishes to obtain a license as a pharmacy*
34 *benefit manager must:*

35 (a) *Submit an application to the Commissioner in the form*
36 *prescribed by the Commissioner; and*

37 (b) *Pay the licensure fee prescribed by regulation by the*
38 *Commissioner.*

39 3. *The Commissioner may adopt such regulations as he or*
40 *she deems necessary and appropriate to establish the*
41 *qualifications to receive a license as a pharmacy benefit manager*
42 *and ensure compliance with the requirements of sections 12 to 21,*
43 *inclusive, of this act.*

44 **Sec. 19.** 1. *A pharmacy benefit manager has a fiduciary*
45 *duty to a third party with which the pharmacy benefit manager*



1 *has entered into a contract to manage the pharmacy benefits plan*
2 *of the third party and shall notify the third party in writing of any*
3 *activity, policy or practice of the pharmacy benefit manager that*
4 *presents a conflict of interest that interferes with the ability of the*
5 *pharmacy benefit manager to discharge that fiduciary duty.*

6 *2. A pharmacy benefit manager shall reimburse to a third*
7 *party with which it has entered into a contract described in*
8 *subsection 1 at least 80 percent of the amount of any rebate*
9 *obtained from a manufacturer for the sale to a covered person of a*
10 *prescription drug used to treat diabetes.*

11 **Sec. 20.** *1. A pharmacy benefit manager shall not:*

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

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

20 *(c) Prohibit a pharmacy from offering or providing delivery*
21 *services directly to a covered person as an ancillary service of the*
22 *pharmacy; or*

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

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

35 **Sec. 21.** *1. A pharmacy benefit manager shall post on an*
36 *Internet website that is maintained by the pharmacy benefit*
37 *manager and accessible to the public the rate at which the*
38 *pharmacy benefit manager reimburses each pharmacy for each*
39 *prescription drug used to treat diabetes that is covered by a*
40 *prescription drug plan managed by the pharmacy benefit*
41 *manager.*

42 *2. On or before February 1 of each year, a pharmacy benefit*
43 *manager shall submit to the Division a report which includes:*

44 *(a) The total amount of all rebates that the pharmacy benefit*
45 *manager negotiated with manufacturers, as defined in NRS*



1 *639.009, during the immediately preceding calendar year for*
2 *prescription drugs used to treat diabetes;*

3 *(b) The total amount of all rebates described in paragraph (a)*
4 *that were retained by the pharmacy benefit manager; and*

5 *(c) The total amount of all rebates described in paragraph (a)*
6 *that were negotiated for purchases of such drugs for use by:*

7 *(1) Recipients of Medicare;*

8 *(2) Recipients of Medicaid;*

9 *(3) Persons covered by third parties that are governmental*
10 *entities which are not described in subparagraph (1) or (2); and*

11 *(4) Persons covered by third parties that are not*
12 *governmental entities.*

13 *3. The Division shall post the reports submitted pursuant to*
14 *subsection 2 on an Internet website maintained by the Division.*

15 **Sec. 22.** NRS 683A.020 is hereby amended to read as follows:

16 683A.020 As used in this Code, unless the context otherwise
17 requires, the words and terms defined in NRS 683A.025 to
18 683A.078, inclusive, *and section 11 of this act* have the meanings
19 ascribed to them in those sections.

20 **Sec. 23.** NRS 683A.383 is hereby amended to read as follows:

21 683A.383 1. A natural person who applies for the issuance or
22 renewal of a certificate of registration as an administrator or a
23 license as a producer of insurance , ~~†~~ managing general agent *or*
24 *pharmacy benefit manager* shall submit to the Commissioner the
25 statement prescribed by the Division of Welfare and Supportive
26 Services of the Department of Health and Human Services pursuant
27 to NRS 425.520. The statement must be completed and signed by
28 the applicant.

29 2. The Commissioner shall include the statement required
30 pursuant to subsection 1 in:

31 (a) The application or any other forms that must be submitted
32 for the issuance or renewal of the certificate of registration or
33 license; or

34 (b) A separate form prescribed by the Commissioner.

35 3. A certificate of registration as an administrator or a license
36 as a producer of insurance , ~~†~~ managing general agent *or*
37 *pharmacy benefit manager* may not be issued or renewed by the
38 Commissioner if the applicant is a natural person who:

39 (a) Fails to submit the statement required pursuant to subsection
40 1; or

41 (b) Indicates on the statement submitted pursuant to subsection
42 1 that he or she is subject to a court order for the support of a child
43 and is not in compliance with the order or a plan approved by the
44 district attorney or other public agency enforcing the order for the
45 repayment of the amount owed pursuant to the order.



1 4. If an applicant indicates on the statement submitted pursuant
2 to subsection 1 that the applicant is subject to a court order for the
3 support of a child and is not in compliance with the order or a plan
4 approved by the district attorney or other public agency enforcing
5 the order for the repayment of the amount owed pursuant to the
6 order, the Commissioner shall advise the applicant to contact the
7 district attorney or other public agency enforcing the order to
8 determine the actions that the applicant may take to satisfy the
9 arrearage.

10 **Sec. 24.** NRS 683A.385 is hereby amended to read as follows:

11 683A.385 1. If the Commissioner receives a copy of a court
12 order issued pursuant to NRS 425.540 that provides for the
13 suspension of all professional, occupational and recreational
14 licenses, certificates and permits issued to a person who is the
15 holder of a certificate of registration as an administrator or a license
16 as a producer of insurance , ~~for~~ managing general agent ~~or~~ *or*
17 *pharmacy benefit manager*, the Commissioner shall suspend the
18 certificate of registration or license issued to that person at the end
19 of the 30th day after the date on which the court order was issued
20 unless the Commissioner receives a letter issued to the holder of the
21 certificate of registration or license by the district attorney or other
22 public agency pursuant to NRS 425.550 stating that the holder of the
23 certificate of registration or license has complied with the subpoena
24 or warrant or has satisfied the arrearage pursuant to NRS 425.560.

25 2. The Commissioner shall reinstate a certificate of registration
26 as an administrator or a license as a producer of insurance , ~~for~~
27 managing general agent *or pharmacy benefit manager* that has been
28 suspended by a district court pursuant to NRS 425.540 if the
29 Commissioner receives a letter issued by the district attorney or
30 other public agency pursuant to NRS 425.550 to the person whose
31 certificate of registration or license was suspended stating that the
32 person whose certificate of registration or license was suspended has
33 complied with the subpoena or warrant or has satisfied the arrearage
34 pursuant to NRS 425.560.

35 **Sec. 25.** NRS 683A.387 is hereby amended to read as follows:

36 683A.387 The application of a natural person who applies for
37 the issuance of a certificate of registration as an administrator or a
38 license as a producer of insurance , ~~for~~ managing general agent *or*
39 *pharmacy benefit manager* must include the social security number
40 of the applicant.

41 **Sec. 26.** NRS 683A.451 is hereby amended to read as follows:

42 683A.451 The Commissioner may refuse to issue a license or
43 certificate pursuant to this chapter or may place any person to whom
44 a license or certificate is issued pursuant to this chapter on
45 probation, suspend the person for not more than 12 months, or



1 revoke or refuse to renew his or her license or certificate, or may
2 impose an administrative fine or take any combination of the
3 foregoing actions, for one or more of the following causes:

4 1. Providing incorrect, misleading, incomplete or partially
5 untrue information in his or her application for a license.

6 2. Violating a law regulating insurance, or violating a
7 regulation, order or subpoena of the Commissioner or an equivalent
8 officer of another state.

9 3. Obtaining or attempting to obtain a license through
10 misrepresentation or fraud.

11 4. Misappropriating, converting or improperly withholding
12 money or property received in the course of the business of
13 insurance.

14 5. Intentionally misrepresenting the terms of an actual or
15 proposed contract of or application for insurance.

16 6. Conviction of a felony or a crime which involves theft,
17 fraud, dishonesty or moral turpitude.

18 7. Admitting or being found to have committed an unfair trade
19 practice or fraud.

20 8. Using fraudulent, coercive or dishonest practices, or
21 demonstrated incompetence, untrustworthiness or financial
22 irresponsibility in the conduct of business, or otherwise, in this State
23 or elsewhere.

24 9. Denial, suspension or revocation of a license as a producer
25 of insurance ~~+~~ *or pharmacy benefit manager*, or ~~its equivalent,~~
26 *their equivalents*, in any other state, territory or province.

27 10. Forging another's name to an application for insurance or
28 any other document relating to the transaction of insurance.

29 11. Improperly using notes or other reference material to
30 complete an examination for a license related to insurance.

31 12. Knowingly accepting business related to insurance from an
32 unlicensed person.

33 13. Failing to comply with an administrative or judicial order
34 imposing an obligation of child support.

35 14. Failing to pay a tax as required by law.

36 *15. Failing to adequately discharge the fiduciary duty*
37 *imposed upon a pharmacy benefit manager by section 19 of this*
38 *act.*

39 **Sec. 27.** 1. The provisions of sections 19 and 20 of this act
40 do not apply to any contract existing on January 1, 2018, for the
41 pharmacy benefit manager to manage a pharmacy benefits plan for a
42 third party until the contract is renewed.

43 2. As used in this section:

44 (a) "Pharmacy benefit manager" has the meaning ascribed to it
45 in section 11 of this act.



1 (b) "Pharmacy benefits plan" has the meaning ascribed to it in
2 section 15 of this act.

3 (c) "Third party" has the meaning ascribed to it in section 16 of
4 this act.

5 **Sec. 28.** This act becomes effective upon passage and approval
6 for the purpose of adopting regulations and performing any other
7 administrative tasks that are necessary to carry out the provisions of
8 this act and on January 1, 2018, for all other purposes.

