

# PRESCRIPTION DRUG COSTS:

## Nevada Legislation

In recent years, the Nevada Legislature has passed a variety of measures concerning prescription drug costs, and the 2021 Legislature will likely consider a wide range of related bills. In 2017 and 2019, legislation established:

- An interim study concerning the costs of prescription drugs;
- Certain policies regarding prescription drug pricing transparency;
- A statewide universal drug donation program;
- The Patient Protection Commission; and
- Consumer protections from rising prescription drug costs during the term of a health insurance policy.

### COMMITTEE TO CONDUCT AN INTERIM STUDY CONCERNING THE COSTS OF PRESCRIPTION DRUGS

[Senate Bill 276](#) (2019) required the Legislative Commission to establish the [Committee to Conduct an Interim Study Concerning the Costs of Prescription Drugs](#). The Committee was composed of six legislators—three senators and three Assembly members—and was required to consult with and solicit input from individuals and organizations with expertise in matters relevant to the costs of prescription drugs.

During the 2019–2020 Interim, the Committee examined:

**1**

The overall costs of prescription drugs in Nevada, including how those costs compare to other states;

**2**

The impact of rebates, price reductions, and other remuneration from manufacturers on the overall costs of prescription drugs in Nevada; and

**3**

Opportunities and options for reducing the costs of prescription drugs to make them more affordable for Nevadans.

## RECOMMENDATIONS FOR LEGISLATION

Upon completion of its work, the Committee submitted a report of study results ([\*Bulletin 21-9\*](#)). The report includes five recommendations for legislation to be considered by the 2021 Nevada Legislature, including proposals to:



### **Establish certain prescription drug purchasing coalitions (SB 396)**

Allows Nevada's Department of Health and Human Services (DHHS) to establish certain prescription drug purchasing coalitions. Such coalitions consolidate the purchasing power of agencies within a state or among different states to obtain prescription drugs in bulk in order to negotiate lower prices from wholesalers or directly from drug manufacturers.



### **Provide for the licensure of pharmaceutical sales representatives (SB 201)**

Requires DHHS to license pharmaceutical sales representatives who are operating within Nevada.



### **Expand pharmaceutical drug pricing transparency (SB 380)**

Expands existing requirements for reporting and information tracking related to the pricing of asthma and diabetes prescription drugs to include all prescription drugs that meet certain criteria. This bill also requires pharmacy benefit managers (PBMs), wholesale drug distributors, and insurers who cover prescription drugs to report additional information.



### **Enhance regulation of pharmacy benefit managers (SB 392)**

Among other provisions, requires PBMs to be licensed by DHHS and prohibits spread pricing, which occurs when health plan providers contract with PBMs to manage their prescription drug benefits and PBMs keep a portion of the amount paid to them by the health plans for prescription drugs.



### **Require a certain percentage of health plans offered in Nevada to provide expanded coverage for prescription drugs (SB 378)**

Requires at least half of health plans in Nevada to offer prescription drug coverage without a deductible from the first day of coverage, cap prescription drug copayments, and limit copayments based on a patient's annual out-of-pocket spending maximum.

# **PRESCRIPTION DRUG PRICING TRANSPARENCY**

Nevada is one of multiple states that have enacted laws to better understand the factors behind the persistent escalation in pharmaceutical drug prices. A common approach is to expand transparency for how drug manufacturers set prices for their products. For example, legislation often requires that if a drug price increase exceeds a given percentage or amount, manufacturers must report certain information such as the reason for the price increase. States may use this information to explore effective solutions to curb high costs of prescription drugs.

## **ASTHMA AND DIABETES DRUG PRICING TRANSPARENCY**

Continuous price increases for crucial prescription drugs may create hardships for patients who depend on medication for chronic conditions such as asthma and diabetes. These patients generally must pay the cost of medically necessary drugs or risk poor health.

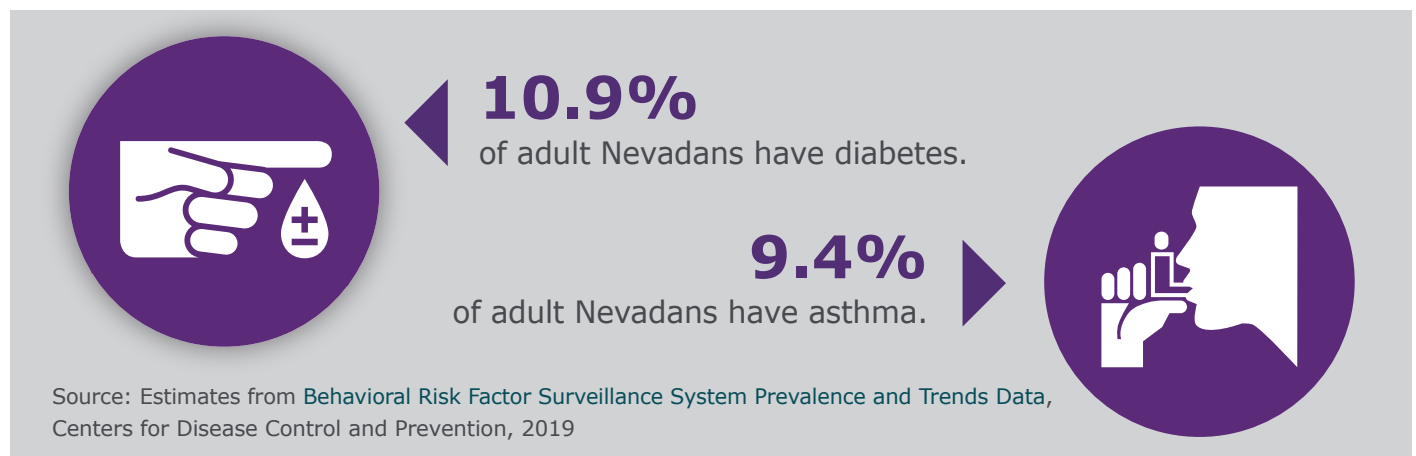
In 2017 and 2019, Nevada became the first state in the nation to pass legislation improving transparency of drug pricing for asthma and diabetes medication.

Specifically, [SB 539](#) (2017)—codified in [Nevada Revised Statutes \(NRS\) 439B.600 through 439B.695](#)—addressed transparency in the pricing of certain diabetes medication. It required:

- The DHHS to compile a list of essential diabetes drugs and a list of such drugs whose prices have increased significantly in recent years;
- Manufacturers of these drugs to submit information regarding drug costs and, for drugs that have seen a price increase, the reasons for the increase; and
- Pharmaceutical benefit managers to report certain information concerning essential diabetes drugs.

The bill also increased transparency regarding formulary changes that affect diabetes drugs, required drug manufacturers to identify their pharmaceutical sales representatives, and required sales representatives to submit an annual report concerning their activities. The DHHS must compile and report the information submitted.

In 2019, [SB 262](#) expanded these provisions established for diabetes medication to apply also to asthma drugs.



## REMOVING “GAG” CLAUSES ON PHARMACISTS

Also in 2017 and 2019, the Nevada Legislature passed two bills removing “gag” clauses on many pharmacists and pharmacies, allowing them to discuss less expensive drugs or other alternative payment options with patients. [Senate Bill 539](#) (2017) and [Assembly Bill 141](#) (2019) made various changes to forbid PBMs from prohibiting certain pharmacists or pharmacies from providing information about a less expensive, alternative, or generic drug to a person covered by a pharmacy benefits plan. Additionally, the measures prohibited PBMs from penalizing such pharmacists or pharmacies for providing this information or selling a less expensive alternative or generic drug to a covered person. These provisions are codified in [NRS 683A.179](#).

### DID YOU KNOW?

The Department of Health and Human Services may impose administrative penalties on drug manufacturers for failing to submit certain required reports related to the pricing of asthma and diabetes medication. The funds from these penalties are used to establish and implement asthma and diabetes education and prevention programs.

## PRESCRIPTION DRUG DONATION PROGRAM

While increasing transparency may help reduce the cost of certain prescription drugs, the Legislature also pursued other policies to improve access to expensive medications. In 2017, [SB 91](#) established the Prescription Drug Donation Program ([NRS 453B.060](#)), which aims to increase access to prescription drugs—especially costly drugs—by ensuring that usable, but unused, medications are redirected to patients who need them. The Program allows a person or governmental entity to donate nearly any unopened prescription drug at a participating pharmacy, medical facility, health clinic, or other health care provider and authorizes an eligible recipient to receive the donated drugs.

## PATIENT PROTECTION COMMISSION

With the passage of [SB 544](#) in 2019, the Legislature created the [Patient Protection Commission](#) to systematically review issues related to the health care needs of Nevada residents and the accessibility, affordability, and quality of health care—including prescription drugs—in the state ([NRS 439.902 through 439.918](#)). The Commission must attempt to identify and facilitate collaboration between existing state governmental entities that study or address these issues, coordinate such entities to reduce duplication, and submit a report to the governor and the Legislature twice per year.

The Commission proposed two bills to the 2021 Legislature: [SB 5](#) and [SB 40](#). Senate Bill 5 proposes various changes to telehealth. Senate Bill 40 is a transparency measure that would require the state to establish—and health insurers and others to provide data to—an all-payer claims database, which could be used to better inform policy on a range of health care issues.

## **PRESCRIPTION DRUG PRICES DURING THE TERM OF A HEALTH INSURANCE POLICY**

In 2017, the Legislature passed [AB 381](#) to protect consumers from increasing prescription drug prices during the term of a health insurance policy ([NRS 687B.4095](#)). This bill prohibited certain health insurers from transferring a prescription drug from a lower cost tier to a higher cost tier within their formulary under specified circumstances. It allowed plans issued to an individual or a small employer to move a drug from a lower tier to a higher tier on specific dates or when an applicable generic drug is added to the formulary under certain conditions.

### **AB 381 (2017)**

***Aimed to protect consumers from increasing prescription drug prices during the term of a health insurance policy***

## **MOVING FORWARD: 2021 LEGISLATION CONCERNING PRESCRIPTION DRUG COSTS**



Reducing the cost of prescription drugs continues to be an issue of interest in Nevada and nationwide, and it is especially timely in light of the COVID-19 pandemic. Various bill draft requests have been submitted on this topic for the 2021 Legislative Session. The resulting bills will likely span a range of subjects—from expanding drug pricing transparency and removing barriers for patients to access their preferred prescription drug treatment, to lowering the costs of prescription drugs for both patients and health insurers. These proposals will be carefully considered by legislators as they decide how best to continue addressing prescription drug prices.

**Research Division  
Legislative Counsel Bureau**

**401 South Carson Street  
Carson City, NV 89701-4747**



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