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THIRD REPRINT

S.B. 265

SENATE BILL NO. 265—SENATORS CANCELA, SEGERBLOM,
ATKINSON, PARKS; CANNIZZARO, DENIS, FARLEY, FORD,
MANENDO AND WOODHOUSE

MARCH 14, 2017

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to prescription drugs.
(BDR 40-809)

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; requiring the Department of Health and Human Services to compile a list of prescription drugs essential for treating diabetes in this State; requiring the manufacturer of a prescription drug included on the list to report certain information to the Department; requiring a manufacturer to notify the Department in advance of planned price increases for such drugs; requiring a manufacturer of prescription drugs to submit a list of each pharmaceutical sales representative who markets prescription drugs to certain persons in this State; prohibiting a pharmaceutical sales representative who is not included on such a list from marketing prescription drugs on behalf of a manufacturer; requiring each pharmaceutical sales representative included on such a list to report certain information to the Department; requiring certain nonprofit organizations to report to the Department certain information concerning contributions received from drug manufacturers, insurers and pharmacy benefit managers or trade and advocacy groups for such entities; requiring the Department to place certain information on its Internet website; authorizing the Department to impose an administrative penalty in certain circumstances; requiring a private school to allow a pupil to keep and self-administer certain drugs; requiring certain insurers to provide certain notice to insureds; providing a penalty; and providing other matters properly relating thereto.



* S B 2 6 5 R 3 *

Legislative Counsel's Digest:

1 Existing law requires the Department of Health and Human Services to compile
2 and post on its Internet website information relating to the prices charged for
3 certain prescription drugs. (NRS 439.915) **Section 6** of this bill requires the
4 Department to annually compile and post on its Internet website a list of drugs that
5 the Department determines to be essential for treating diabetes in this State,
6 including the wholesale acquisition cost of such a drug. **Section 7** of this bill
7 requires the manufacturer of a prescription drug included on the list to submit to the
8 Department an annual report that contains certain information concerning the cost
9 of the drug. **Section 7** also requires the Department to compile and post on its
10 Internet website a report concerning the prices of the essential diabetes drugs
11 included on the list and the effect of those prices on overall spending on health care
12 in this State. **Section 27.5** of this bill further excludes the information reported by
13 the manufacturer from the definition of "trade secret." **Section 9** of this bill requires
14 a nonprofit organization that advocates for patients or funds medical research in
15 this State to post on its Internet website or, if it does not maintain an Internet
16 website, submit to the Department certain information concerning payments,
17 donations and anything else of value that the organization receives from
18 manufacturers of prescription drugs, certain third parties or pharmacy benefit
19 managers or trade or advocacy groups for such entities. **Section 8** of this bill
20 requires the manufacturer of a prescription drug included on the list of essential
21 diabetes drugs to notify the Department at least 90 days before a planned price
22 increase. **Section 12** of this bill requires the Department to place the information
23 submitted by nonprofit organizations, information submitted by manufacturers
24 concerning planned price increases and certain additional information on the
25 Internet website maintained by the Department. **Section 13** of this bill provides that
26 the Department is not liable for any act, omission, error or technical problem that
27 results in the failure to provide information or the provision of any incorrect
28 information placed on the Internet website of the Department. **Section 14** of this
29 bill requires the Department to adopt any necessary regulations concerning the
30 reporting of information by manufacturers and nonprofit organizations for inclusion
31 on the Internet website of the Department. **Section 16** of this bill authorizes the
32 Department to impose an administrative penalty on a manufacturer or nonprofit
33 organization that fails to post or submit required information. **Section 30** of this bill
34 requires an insurer that issues a plan of individual health insurance and uses a
35 formulary to provide, during each open enrollment period, a notice of any drugs on
36 the list of essential diabetes drugs that have been removed from the formulary or
37 will be removed from the formulary during the current plan year or the next plan
38 year.
39 **Section 8.5** of this bill requires a manufacturer to provide to the Department a
40 list of each pharmaceutical sales representative who markets prescription drugs to
41 providers of health care, pharmacies, medical facilities and insurers in this State on
42 behalf of the manufacturer. **Section 8.5** also prohibits: (1) a person who is not
43 included on such a list from marketing prescription drugs on behalf of a
44 manufacturer to providers of health care, pharmacies, medical facilities and
45 insurers; and (2) a provider of health care, pharmacy, medical facility or insurer
46 from communicating about prescription drugs with a person who is marketing
47 prescription drugs on behalf of a manufacturer unless the person is included on
48 such a list. Additionally, **section 8.5** requires each pharmaceutical sales
49 representative who is included on such a list to submit an annual report to the
50 Department. Finally, **section 8.5** requires the Department to compile an annual
51 report based on the information submitted by pharmaceutical sales representatives.
52 **Section 16** authorizes the Department to impose an administrative penalty against a
53 manufacturer or pharmaceutical sales representative who fails to provide the
54 required information.



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55 Upon the submission of a written request, existing law requires a public school
56 to allow a pupil who has asthma, anaphylaxis or diabetes to carry and self-
57 administer medication to treat his or her disorder while the pupil is on the grounds
58 of a public school, participating in an activity sponsored by a public school or on a
59 school bus. (NRS 392.425) Willful failure to carry out this requirement is grounds
60 for suspending, demoting, dismissing or refusing to reemploy a teacher or
61 administrator. (NRS 391.750) **Section 27** of this bill: (1) imposes similar
62 requirements for private schools; and (2) makes a willful violation of those
63 requirements a misdemeanor.

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 to 9, inclusive, of this
3 act.

4 **Sec. 2.** *“Manufacturer” means a person who derives,*
5 *produces, prepares, cultivates, grows or processes a prescription*
6 *drug.*

7 **Sec. 3.** *“Pharmacy” means every store or shop licensed by*
8 *the State Board of Pharmacy where drugs, controlled substances,*
9 *poisons, medicines or chemicals are stored or possessed, or*
10 *dispensed or sold at retail, or displayed for sale at retail, or where*
11 *prescriptions are compounded or dispensed. The term does not*
12 *include an institutional pharmacy as defined in NRS 639.0085.*

13 **Sec. 3.5.** *“Pharmacy benefit manager” means a person or*
14 *entity that contracts to administer the prescription drug coverage*
15 *of any insurer or organization that provides health coverage or*
16 *benefits in accordance with state or federal law.*

17 **Sec. 4.** (Deleted by amendment.)

18 **Sec. 5.** *“Wholesale acquisition cost” means the*
19 *manufacturer’s list price for a prescription drug to wholesalers or*
20 *direct purchasers in the United States, not including any*
21 *discounts, rebates or reductions in price, as reported in wholesale*
22 *price guides or other publications of drug pricing data.*

23 **Sec. 6.** *On or before February 1 of each year, the*
24 *Department shall compile a list of prescription drugs that the*
25 *Department determines to be essential for treating diabetes in this*
26 *State and the wholesale acquisition cost of each such drug on the*
27 *list. The list must include, without limitation, all forms of insulin*
28 *and biguanides marketed for sale in this State.*

29 **Sec. 7. 1.** *On or before April 1 of each year, the*
30 *manufacturer of a prescription drug that appears on the most*
31 *current list compiled by the Department pursuant to section 6 of*
32 *this act shall prepare and submit to the Department, in the form*
33 *prescribed by the Department, a report which must include:*



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- 1 (a) *The costs of producing the drug;*
2 (b) *The total administrative expenditures relating to the drug,*
3 *including marketing and advertising costs;*
4 (c) *The profit that the manufacturer has earned from the drug*
5 *and the percentage of the manufacturer's total profit for the*
6 *period during which the manufacturer has marketed the drug for*
7 *sale that is attributable to the drug;*
8 (d) *The total amount of financial assistance that the*
9 *manufacturer has provided through any patient prescription*
10 *assistance program;*
11 (e) *The cost associated with coupons provided directly to*
12 *consumers and for programs to assist consumers in paying*
13 *copayments, and the cost to the manufacturer attributable to the*
14 *redemption of those coupons and the use of those programs;*
15 (f) *The wholesale acquisition cost of the drug;*
16 (g) *A history of any increases in the wholesale acquisition cost*
17 *of the drug over the 5 years immediately preceding the date on*
18 *which the report is submitted, including the amount of each such*
19 *increase expressed as a percentage of the total wholesale*
20 *acquisition cost of the drug, the month and year in which each*
21 *increase became effective and any explanation for the increase;*
22 (h) *The aggregate amount of all rebates that the manufacturer*
23 *has provided to pharmacy benefit managers for sales of the drug*
24 *within this State; and*
25 (i) *Any additional information prescribed by regulation of the*
26 *Department for the purpose of analyzing the cost of prescription*
27 *drugs that appear on the list compiled pursuant to section 6 of this*
28 *act, trends in those costs and rebates available for such drugs.*

29 2. *On or before June 1 of each year, the Department shall*
30 *analyze the information submitted pursuant to subsection 1 and*
31 *compile and post on the Internet website maintained by the*
32 *Department a report on the price of the prescription drugs that*
33 *appear on the most current list compiled by the Department*
34 *pursuant to section 6 of this act and the effect of those prices on*
35 *overall spending on prescription drugs in this State. The report*
36 *may include, without limitation, opportunities for persons and*
37 *entities in this State to lower the cost of drugs for the treatment of*
38 *diabetes while maintaining access to such drugs.*

39 **Sec. 8.** *At least 90 days before increasing the wholesale*
40 *acquisition cost of a prescription drug included on the list*
41 *compiled by the Department pursuant to section 6 of this act, the*
42 *manufacturer of the drug shall notify the Department of the*
43 *planned price increase.*

44 **Sec. 8.5.** *1. A manufacturer shall provide to the*
45 *Department a list of each pharmaceutical sales representative who*



1 *markets prescription drugs on behalf of the manufacturer to*
2 *providers of health care licensed, certified or registered in this*
3 *State, pharmacies or employees thereof, operators or employees of*
4 *medical facilities or persons licensed or certified under the*
5 *provisions of title 57 of NRS and update the list at least once each*
6 *month.*

7 2. *The Department shall provide electronic access to the most*
8 *recent list provided by each manufacturer pursuant to subsection*
9 *1 to each provider of health care licensed, certified or registered in*
10 *this State, operator of a pharmacy, operator of a medical facility*
11 *or person licensed or certified under the provisions of title 57 of*
12 *NRS to ensure compliance with the requirements of subsection 4.*

13 3. *A pharmaceutical sales representative who is not included*
14 *on a current list submitted pursuant to subsection 1 shall not*
15 *market prescription drugs on behalf of a manufacturer:*

16 (a) *To any provider of health care licensed, certified or*
17 *registered in this State, pharmacy or employee thereof, operator or*
18 *employee of a medical facility or person licensed or certified under*
19 *the provisions of title 57 of NRS; or*

20 (b) *For sale to any resident of this State.*

21 4. *A provider of health care licensed, certified or registered in*
22 *this State, pharmacy or employee thereof, operator or employee of*
23 *a medical facility or person licensed or certified under the*
24 *provisions of title 57 of NRS shall not communicate about*
25 *prescription drugs with a pharmaceutical sales representative who*
26 *is marketing prescription drugs on behalf of a manufacturer*
27 *unless the pharmaceutical sales representative is included on a*
28 *current list submitted pursuant to subsection 1.*

29 5. *On or before March 1 of each year, each pharmaceutical*
30 *sales representative who was included on a list of pharmaceutical*
31 *sales representatives submitted pursuant to subsection 1 at any*
32 *time during the immediately preceding calendar year shall submit*
33 *to the Department a report, which must include, for the*
34 *immediately preceding calendar year:*

35 (a) *A list of providers of health care licensed, certified or*
36 *registered in this State, pharmacies and employees thereof,*
37 *operators and employees of medical facilities and persons licensed*
38 *or certified under the provisions of title 57 of NRS whom the*
39 *pharmaceutical sales representative contacted;*

40 (b) *The name and manufacturer of each prescription drug for*
41 *which the pharmaceutical sales representative provided a free*
42 *sample to a provider of health care licensed, certified or registered*
43 *in this State, pharmacy or employee thereof, operator or employee*
44 *of a medical facility or person licensed or certified under the*



1 *provisions of title 57 of NRS and the name of each such person to*
2 *whom a free sample was provided; and*

3 *(c) The name of each provider of health care licensed, certified*
4 *or registered in this State, pharmacy or employee thereof, operator*
5 *or employee of a medical facility or person licensed or certified*
6 *under the provisions of title 57 of NRS to whom the*
7 *pharmaceutical sales representative provided anything of value,*
8 *including, without limitation, any gift, food or free supplies, and*
9 *the value of such items.*

10 *6. The Department shall analyze annually the information*
11 *submitted pursuant to subsection 5 and compile a report on the*
12 *activities of pharmaceutical sales representatives in this State. On*
13 *or before June 1 of each year, the Department shall:*

14 *(a) Post the report on the Internet website maintained by the*
15 *Department; and*

16 *(b) Submit the report to the Governor and the Director of the*
17 *Legislative Counsel Bureau for transmittal to the Legislative*
18 *Committee on Health Care and, in even-numbered years, the next*
19 *regular session of the Legislature.*

20 *7. Except as otherwise provided in subsection 2, each list*
21 *submitted to the Department pursuant to subsection 1 and each*
22 *report submitted by a pharmaceutical sales representative*
23 *pursuant to subsection 5 is confidential.*

24 *8. As used in this section:*

25 *(a) "Medical facility" has the meaning ascribed to it in*
26 *NRS 629.026.*

27 *(b) "Pharmaceutical sales representative" means a person who*
28 *markets prescription drugs to providers of health care licensed,*
29 *certified or registered in this State, pharmacies or employees*
30 *thereof, operators or employees of medical facilities or persons*
31 *licensed or certified under the provisions of title 57 of NRS.*

32 *(c) "Provider of health care" has the meaning ascribed to it in*
33 *NRS 629.031.*

34 *Sec. 9. 1. On or before February 1 of each year, a*
35 *nonprofit organization that advocates on behalf of patients or*
36 *funds medical research in this State and has received a payment,*
37 *donation, subsidy or anything else of value from a manufacturer,*
38 *third party or pharmacy benefit manager or a trade or advocacy*
39 *group for manufacturers, third parties or pharmacy benefit*
40 *managers during the immediately preceding calendar year shall:*

41 *(a) Compile a report which includes:*

42 *(1) For each such contribution, the amount of the*
43 *contribution and the manufacturer, third party or pharmacy*
44 *benefit manager or group that provided the payment, donation,*
45 *subsidy or other contribution; and*



1 (2) *The percentage of the total gross income of the*
2 *organization during the immediately preceding calendar year*
3 *attributable to payments, donations, subsidies or other*
4 *contributions from each manufacturer, third party, pharmacy*
5 *benefit manager or group; and*

6 (b) *Except as otherwise provided in this paragraph, post the*
7 *report on an Internet website that is maintained by the nonprofit*
8 *organization and accessible to the public. If the nonprofit*
9 *organization does not maintain an Internet website that is*
10 *accessible to the public, the nonprofit organization shall submit*
11 *the report compiled pursuant to paragraph (a) of subsection 1 to*
12 *the Department.*

13 2. *As used in this section, "third party" means:*

14 (a) *An insurer, as that term is defined in NRS 679B.540;*

15 (b) *A health benefit plan, as that term is defined in NRS*
16 *689A.540, for employees which provides coverage for prescription*
17 *drugs;*

18 (c) *A participating public agency, as that term is defined in*
19 *NRS 287.04052, and any other local governmental agency of the*
20 *State of Nevada which provides a system of health insurance for*
21 *the benefit of its officers and employees, and the dependents of*
22 *officers and employees, pursuant to chapter 287 of NRS; or*

23 (d) *Any other insurer or organization that provides health*
24 *coverage or benefits in accordance with state or federal law.*

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

27 **Sec. 10.** (Deleted by amendment.)

28 **Sec. 11.** NRS 439.900 is hereby amended to read as follows:

29 439.900 As used in NRS 439.900 to 439.940, inclusive, *and*
30 *sections 2 to 9, inclusive, of this act*, unless the context otherwise
31 requires, ~~["pharmacy" means every store or shop licensed by the~~
32 ~~State Board of Pharmacy where drugs, controlled substances,~~
33 ~~poisons, medicines or chemicals are stored or possessed, or~~
34 ~~dispensed or sold at retail, or displayed for sale at retail, or where~~
35 ~~prescriptions are compounded or dispensed. The term does not~~
36 ~~include an institutional pharmacy as defined in NRS 639.0085.]~~ *the*
37 *words and terms defined in sections 2 to 5, inclusive, of this act*
38 *have the meanings ascribed to them in those sections.*

39 **Sec. 12.** NRS 439.915 is hereby amended to read as follows:

40 439.915 1. Except as otherwise provided in subsection 2, the
41 Department shall:

42 (a) Place or cause to be placed on the Internet website
43 maintained by the Department ~~{the}~~ :

44 (1) *The list of essential diabetes drugs compiled by the*
45 *Department pursuant to section 6 of this act;*



1 ***(2) The wholesale acquisition cost of each prescription***
2 ***drug reported pursuant to section 7 of this act;***

3 ***(3) The name of each drug for which the manufacturer has***
4 ***notified the Department of a planned increase in the wholesale***
5 ***acquisition cost of the drug pursuant to section 8 of this act; and***

6 ***(4) The information provided by each pharmacy pursuant to***
7 ***NRS 439.910 ~~†~~ and each nonprofit organization that is required***
8 ***to submit a report pursuant to section 9 of this act;***

9 (b) Ensure that the information ~~†provided by each pharmacy~~
10 ~~pursuant to NRS 439.910 and†~~ placed on the Internet website
11 maintained by the Department ***pursuant to paragraph (a)*** is
12 organized so that each individual pharmacy , ***manufacturer and***
13 ***nonprofit organization*** has its own separate entry on that website;
14 ~~†and†~~

15 ***(c) Ensure that the information described in subparagraph (3)***
16 ***of paragraph (a) is placed on the Internet website maintained by***
17 ***the Department as soon as practicable after the Department***
18 ***receives the information; and***

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

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

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

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

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

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

45 (a) In the form of paper records;



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1 (b) Through the use of a telephonic system; or

2 (c) Using other methods or technologies designed specifically to
3 assist consumers who are hearing impaired or visually impaired.

4 4. As used in this section, "usual and customary price" means
5 the usual and customary charges that a ~~{provider}~~ **pharmacy** charges
6 to the general public for a drug, as described in 42 C.F.R. §
7 ~~{447.331.}~~ **447.512.**

8 **Sec. 13.** NRS 439.925 is hereby amended to read as follows:

9 439.925 The Department and its members, officers and
10 employees are not liable civilly or criminally for any act, omission,
11 error or technical problem that results in:

12 1. The failure to provide to consumers information regarding a
13 pharmacy, **prescription drug or nonprofit organization**, including,
14 without limitation, the ~~{prices charged by the pharmacy for the~~
15 ~~prescription drugs and generic equivalents that are on the list~~
16 ~~prepared pursuant to NRS 439.905; or}~~ **information made available**
17 **on the Department's Internet website pursuant to NRS 439.915; or**

18 2. The providing to consumers of incorrect information
19 regarding a pharmacy, **prescription drug or nonprofit organization**,
20 including, without limitation, the ~~{prices charged by the pharmacy~~
21 ~~for the prescription drugs and generic equivalents that are on the list~~
22 ~~prepared pursuant to NRS 439.905.}~~ **information made available on**
23 **the Department's Internet website pursuant to NRS 439.915.**

24 **Sec. 14.** NRS 439.930 is hereby amended to read as follows:

25 439.930 The Department shall adopt such regulations as it
26 determines to be necessary or advisable to carry out the provisions
27 of NRS 439.900 to 439.940, inclusive ~~{,}~~ **, and sections 2 to 9,**
28 **inclusive, of this act.** Such regulations must provide for, without
29 limitation:

30 1. Notice to consumers stating that:

31 (a) Although the Department will strive to ensure that
32 consumers receive accurate information regarding pharmacies,
33 **prescription drugs and nonprofit organizations**, including, without
34 limitation, the ~~{prices charged by those pharmacies for the~~
35 ~~prescription drugs and generic equivalents that are on the list~~
36 ~~prepared pursuant to NRS 439.905.}~~ **information made available on**
37 **the Department's Internet website pursuant to NRS 439.915,** the
38 Department is unable to guarantee the accuracy of such information;

39 (b) If a consumer follows an Internet link from the Internet
40 website maintained by the Department to an Internet website **not**
41 maintained by ~~{a pharmacy.}~~ the Department **, the Department** is
42 unable to guarantee the accuracy of any information made available
43 on ~~{the Internet}~~ **that** website **;** ~~{maintained by the pharmacy;}~~ and

44 (c) The Department advises consumers to contact a pharmacy **,**
45 **manufacturer or nonprofit organization** directly to verify the



1 accuracy of any information regarding the pharmacy , *a prescription*
2 *drug manufactured by the manufacturer or the nonprofit*
3 *organization, as applicable*, which is made available to consumers
4 pursuant to NRS 439.900 to 439.940, inclusive ~~{}~~ , *and sections 2*
5 *to 9, inclusive, of this act;*

6 2. Procedures adopted to direct consumers who have questions
7 regarding the program described in NRS 439.900 to 439.940,
8 inclusive, *and sections 2 to 9, inclusive, of this act* to contact the
9 Office for Consumer Health Assistance of the Department;

10 3. Provisions in accordance with which the Department will
11 allow an Internet link to the information ~~{provided by each~~
12 ~~pharmacy pursuant to NRS 439.910}~~ and made available on the
13 Department's Internet website *pursuant to NRS 439.915 and*
14 *sections 6 and 7 of this act* to be placed on other Internet websites
15 managed or maintained by other persons and entities, including,
16 without limitation, Internet websites managed or maintained by:

17 (a) Other governmental entities, including, without limitation,
18 the State Board of Pharmacy and the Office of the Governor; and

19 (b) Nonprofit organizations and advocacy groups;

20 4. Procedures pursuant to which consumers , ~~and~~ pharmacies
21 , *manufacturers and nonprofit organizations* may report to the
22 Department that information made available to consumers pursuant
23 to NRS 439.900 to 439.940, inclusive, *and sections 2 to 9,*
24 *inclusive, of this act* is inaccurate;

25 5. The form and manner in which pharmacies are to provide to
26 the Department the information described in NRS 439.910; ~~and~~

27 6. *The form and manner in which manufacturers are to*
28 *provide to the Department the information described in sections 7,*
29 *8 and 8.5 of this act;*

30 7. *The form and manner in which pharmaceutical sales*
31 *representatives are to provide to the Department the information*
32 *described in section 8.5 of this act;*

33 8. *The form and manner in which nonprofit organizations*
34 *are to provide to the Department the information described in*
35 *section 9 of this act, if required; and*

36 9. Standards and criteria pursuant to which the Department
37 may remove from its Internet website information regarding a
38 pharmacy or an Internet link to the Internet website maintained by a
39 pharmacy, or both, if the Department determines that the pharmacy
40 has:

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

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



1 **Sec. 15.** NRS 439.935 is hereby amended to read as follows:

2 439.935 1. On or before July 1 of each odd-numbered year,
3 the Department shall make a determination of whether sufficient
4 money is available and authorized for expenditure to fund one or
5 more components of the programs and other duties of the
6 Department relating to NRS 439.900 to 439.940, inclusive **H**, *and*
7 *sections 2 to 9, inclusive, of this act.*

8 2. The Department shall temporarily suspend any components
9 of the program or duties of the Department for which it determines
10 pursuant to subsection 1 that sufficient money is not available.

11 3. The Department may apply for and accept any available
12 grants and may accept any bequests, devises, donations or gifts from
13 any public or private source to carry out the provisions of NRS
14 439.900 to 439.940, inclusive **H**, *and sections 2 to 9, inclusive, of*
15 *this act.*

16 **Sec. 16.** NRS 439.940 is hereby amended to read as follows:

17 439.940 1. If a pharmacy that is licensed under the provisions
18 of chapter 639 of NRS and is located within the State of Nevada
19 fails to provide to the Department the information required to be
20 provided pursuant to NRS 439.910 or fails to provide such
21 information on a timely basis, and the failure was not caused by
22 excusable neglect, technical problems or other extenuating
23 circumstances, the Department may impose against the pharmacy an
24 administrative penalty of not more than \$500 for each day of such
25 failure.

26 2. *If a manufacturer fails to provide to the Department the*
27 *information required by section 7, 8 or 8.5 of this act, a nonprofit*
28 *organization fails to post or provide to the Department, as*
29 *applicable, the information required by section 9 of this act or a*
30 *manufacturer or nonprofit organization fails to post or provide, as*
31 *applicable, such information on a timely basis, and the failure was*
32 *not caused by excusable neglect, technical problems or other*
33 *extenuating circumstances, the Department may impose against*
34 *the manufacturer or nonprofit organization, as applicable, an*
35 *administrative penalty of not more than \$5,000 for each day of*
36 *such failure.*

37 3. *Except as otherwise provided in subsection 2, if a person*
38 *fails to comply with the requirements of section 8.5 of this act, the*
39 *Department may impose against the person an administrative*
40 *penalty of not more than \$500 for each day of such failure.*

41 **Sec. 17.** (Deleted by amendment.)

42 **Sec. 18.** (Deleted by amendment.)

43 **Sec. 19.** (Deleted by amendment.)

44 **Sec. 20.** (Deleted by amendment.)

45 **Sec. 21.** (Deleted by amendment.)



- 1 **Sec. 22.** (Deleted by amendment.)
- 2 **Sec. 23.** (Deleted by amendment.)
- 3 **Sec. 24.** (Deleted by amendment.)
- 4 **Sec. 25.** (Deleted by amendment.)
- 5 **Sec. 26.** (Deleted by amendment.)

6 **Sec. 26.5.** NRS 239.010 is hereby amended to read as follows:

7 239.010 1. Except as otherwise provided in this section and
8 NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440,
9 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320,
10 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246,
11 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355,
12 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730,
13 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260,
14 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370,
15 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161,
16 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817,
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18 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715,
19 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160,
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22 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350,
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24 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300,
25 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140,
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27 241.030, 241.039, 242.105, 244.264, 244.335, 250.087, 250.130,
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33 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100,
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35 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008,
36 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259,
37 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147,
38 392.264, 392.271, 392.850, 394.167, 394.1698, 394.447, 394.460,
39 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885,
40 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749,
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44 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665,
45 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 453.720,



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4 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070,
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10 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336,
11 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301,
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25 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190,
26 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615,
27 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230,
28 710.159, 711.600 **H and section 8.5 of this act**, sections 35, 38 and
29 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter
30 391, Statutes of Nevada 2013 and unless otherwise declared by law
31 to be confidential, all public books and public records of a
32 governmental entity must be open at all times during office hours to
33 inspection by any person, and may be fully copied or an abstract or
34 memorandum may be prepared from those public books and public
35 records. Any such copies, abstracts or memoranda may be used to
36 supply the general public with copies, abstracts or memoranda of the
37 records or may be used in any other way to the advantage of the
38 governmental entity or of the general public. This section does not
39 supersede or in any manner affect the federal laws governing
40 copyrights or enlarge, diminish or affect in any other manner the
41 rights of a person in any written book or record which is
42 copyrighted pursuant to federal law.

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



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

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

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

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

21 **Sec. 27.** Chapter 394 of NRS is hereby amended by adding
22 thereto a new section to read as follows:

23 *1. The parent or legal guardian of a pupil who has asthma,*
24 *anaphylaxis or diabetes may submit a written request to the*
25 *principal or, if applicable, the school nurse of the private school in*
26 *which the pupil is enrolled to allow the pupil to self-administer*
27 *medication for the treatment of the pupil's asthma, anaphylaxis or*
28 *diabetes while the pupil is on the grounds of the private school,*
29 *participating in an activity sponsored by the private school or on a*
30 *school bus.*

31 *2. A private school shall establish protocols for containing*
32 *blood-borne pathogens and the handling and disposal of needles,*
33 *medical devices and other medical waste and provide a copy of*
34 *these protocols and procedures to the parent or guardian of a*
35 *pupil who requests permission for the pupil to self-administer*
36 *medication pursuant to subsection 1.*

37 *3. A written request made pursuant to subsection 1 must*
38 *include:*

39 *(a) A signed statement of a physician indicating that the pupil*
40 *has asthma, anaphylaxis or diabetes and is capable of self-*
41 *administration of the medication while the pupil is on the grounds*
42 *of the private school, participating in an activity sponsored by the*
43 *private school or on a school bus;*

44 *(b) A written treatment plan prepared by the physician*
45 *pursuant to which the pupil will manage his or her asthma,*



1 *anaphylaxis or diabetes if the pupil experiences an asthmatic*
2 *attack, anaphylactic shock or diabetic episode while on the*
3 *grounds of the private school, participating in an activity*
4 *sponsored by the private school or on a school bus; and*

5 *(c) A signed statement of the parent or legal guardian:*

6 *(1) Indicating that the parent or legal guardian grants*
7 *permission for the pupil to self-administer the medication while*
8 *the pupil is on the grounds of the private school, participating in*
9 *an activity sponsored by the private school or on a school bus;*

10 *(2) Acknowledging that the parent or legal guardian is*
11 *aware of and understands the provisions of subsections 4 and 5;*

12 *(3) Acknowledging the receipt of the protocols provided*
13 *pursuant to subsection 2;*

14 *(4) Acknowledging that the protocols established pursuant*
15 *to subsection 2 have been explained to the pupil who will self-*
16 *administer the medication and that he or she has agreed to comply*
17 *with the protocols; and*

18 *(5) Acknowledging that authorization to self-administer*
19 *medication pursuant to this section may be revoked if the pupil*
20 *fails to comply with the protocols established pursuant to*
21 *subsection 2.*

22 *4. The provisions of this section do not create a duty for the*
23 *private school in which the pupil is enrolled, or an employee or*
24 *agent thereof, that is in addition to those duties otherwise required*
25 *in the course of service or employment.*

26 *5. If a pupil is granted authorization pursuant to this section*
27 *to self-administer medication, the governing body of the private*
28 *school in which the pupil is enrolled, the private school and any*
29 *employee or agent thereof, are immune from liability for the*
30 *injury to or death of:*

31 *(a) The pupil as a result of self-administration of a medication*
32 *pursuant to this section or the failure of the pupil to self-*
33 *administer such a medication; and*

34 *(b) Any other person as a result of exposure to or injury*
35 *caused by needles, medical devices or other medical waste from*
36 *the self-administration of medication by a pupil pursuant to this*
37 *section.*

38 *6. Upon receipt of a request that complies with subsection 3,*
39 *the principal or, if applicable, the school nurse of the private*
40 *school in which the pupil is enrolled shall provide written*
41 *authorization for the pupil to carry and self-administer medication*
42 *to treat his or her asthma, anaphylaxis or diabetes while the pupil*
43 *is on the grounds of the private school, participating in an activity*
44 *sponsored by the private school or on a school bus. The written*
45 *authorization must be filed with the principal or, if applicable, the*



1 *school nurse of the private school in which the pupil is enrolled*
2 *and must include:*

3 *(a) The name and purpose of the medication which the pupil is*
4 *authorized to self-administer;*

5 *(b) The prescribed dosage and the duration of the prescription;*

6 *(c) The times or circumstances, or both, during which the*
7 *medication is required or recommended for self-administration;*

8 *(d) The side effects that may occur from an administration of*
9 *the medication;*

10 *(e) The name and telephone number of the pupil's physician*
11 *and the name and telephone number of the person to contact in*
12 *the case of a medical emergency concerning the pupil; and*

13 *(f) The procedures for the handling and disposal of needles,*
14 *medical devices and other medical waste.*

15 *7. The written authorization provided pursuant to subsection*
16 *6 is valid for 1 school year. If a parent or legal guardian submits a*
17 *written request that complies with subsection 3, the principal or, if*
18 *applicable, the school nurse of the private school in which the*
19 *pupil is enrolled shall renew and, if necessary, revise the written*
20 *authorization.*

21 *8. If a parent or legal guardian of a pupil who is authorized*
22 *pursuant to this section to carry medication on his or her person*
23 *provides to the principal or, if applicable, the school nurse of the*
24 *private school in which the pupil is enrolled doses of the*
25 *medication in addition to the dosage that the pupil carries on his*
26 *or her person, the principal or, if applicable, the school nurse*
27 *shall ensure that the additional medication is:*

28 *(a) Stored on the premises of the private school in a location*
29 *that is secure; and*

30 *(b) Readily available if the pupil experiences an asthmatic*
31 *attack, anaphylactic shock or diabetic episode during school*
32 *hours.*

33 *9. An employee of a private school who willfully violates any*
34 *provision of this section is guilty of a misdemeanor.*

35 *10. As used in this section:*

36 *(a) "Medication" has the meaning ascribed to it in*
37 *NRS 392.425.*

38 *(b) "Physician" has the meaning ascribed to it in*
39 *NRS 392.425.*

40 *(c) "Self-administer" has the meaning ascribed to it in*
41 *NRS 392.425.*

42 **Sec. 27.5.** NRS 600A.030 is hereby amended to read as
43 follows:

44 600A.030 As used in this chapter, unless the context otherwise
45 requires:



- 1 1. "Improper means" includes, without limitation:
2 (a) Theft;
3 (b) Bribery;
4 (c) Misrepresentation;
5 (d) Willful breach or willful inducement of a breach of a duty to
6 maintain secrecy;
7 (e) Willful breach or willful inducement of a breach of a duty
8 imposed by common law, statute, contract, license, protective order
9 or other court or administrative order; and
10 (f) Espionage through electronic or other means.
- 11 2. "Misappropriation" means:
12 (a) Acquisition of the trade secret of another by a person by
13 improper means;
14 (b) Acquisition of a trade secret of another by a person who
15 knows or has reason to know that the trade secret was acquired by
16 improper means; or
17 (c) Disclosure or use of a trade secret of another without express
18 or implied consent by a person who:
19 (1) Used improper means to acquire knowledge of the trade
20 secret;
21 (2) At the time of disclosure or use, knew or had reason to
22 know that his or her knowledge of the trade secret was:
23 (I) Derived from or through a person who had used
24 improper means to acquire it;
25 (II) Acquired under circumstances giving rise to a duty to
26 maintain its secrecy or limit its use; or
27 (III) Derived from or through a person who owed a duty
28 to the person seeking relief to maintain its secrecy or limit its use; or
29 (3) Before a material change of his or her position, knew or
30 had reason to know that it was a trade secret and that knowledge of
31 it had been acquired by accident or mistake.
- 32 3. "Owner" means the person who holds legal or equitable title
33 to a trade secret.
- 34 4. "Person" means a natural person, corporation, business trust,
35 estate, trust, partnership, association, joint venture, government,
36 governmental subdivision or agency, or any other legal or
37 commercial entity.
- 38 5. "Trade secret" means information, including, without
39 limitation, a formula, pattern, compilation, program, device,
40 method, technique, product, system, process, design, prototype,
41 procedure, computer programming instruction or code that:
42 (a) Derives independent economic value, actual or potential,
43 from not being generally known to, and not being readily
44 ascertainable by proper means by the public or any other persons



1 who can obtain commercial or economic value from its disclosure or
2 use; and

3 (b) Is the subject of efforts that are reasonable under the
4 circumstances to maintain its secrecy.

5 *↳ The term does not include any information that a manufacturer*
6 *is required to report pursuant to section 7 of this act, to the extent*
7 *that such information is required to be disclosed by that section.*

8 **Sec. 28.** (Deleted by amendment.)

9 **Sec. 29.** (Deleted by amendment.)

10 **Sec. 30.** NRS 689A.405 is hereby amended to read as follows:

11 689A.405 1. An insurer that offers or issues a policy of
12 health insurance which provides coverage for prescription drugs
13 shall include with any summary, certificate or evidence of that
14 coverage provided to an insured, notice of whether a formulary is
15 used and, if so, of the opportunity to secure information regarding
16 the formulary from the insurer pursuant to subsection 2. The notice
17 required by this subsection must:

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

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

21 (c) If a formulary is used, include:

22 (1) An explanation of:

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

24 and

25 (II) The procedure and criteria for determining which
26 prescription drugs are included in and excluded from the formulary;
27 and

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

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

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

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

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

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



* S B 2 6 5 R 3 *

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

5 (1) *Are included on the most recent list of drugs that are*
6 *essential for treating diabetes in this State compiled by the*
7 *Department of Health and Human Services pursuant to section 6*
8 *of this act; and*

9 (2) *Have been removed or will be removed from the*
10 *formulary during the current plan year or the next plan year.*

11 (d) *Update the notice required by paragraph (c) throughout*
12 *the period for open enrollment.*

13 **Sec. 31.** (Deleted by amendment.)

14 **Sec. 32.** (Deleted by amendment.)

15 **Sec. 33.** (Deleted by amendment.)

16 **Sec. 34.** (Deleted by amendment.)

17 **Sec. 35.** (Deleted by amendment.)

18 **Sec. 36.** (Deleted by amendment.)

19 **Sec. 37.** (Deleted by amendment.)

20 **Sec. 38.** (Deleted by amendment.)

21 **Sec. 39.** (Deleted by amendment.)

22 **Sec. 40.** (Deleted by amendment.)

23 **Sec. 41.** (Deleted by amendment.)

24 **Sec. 42.** (Deleted by amendment.)

25 **Sec. 43.** (Deleted by amendment.)

26 **Sec. 44.** (Deleted by amendment.)

27 **Sec. 44.3.** The provisions of subsection 1 of NRS 218D.380
28 do not apply to any provision of this act which adds or revises a
29 requirement to submit a report to the Legislature.

30 **Sec. 44.5.** 1. Notwithstanding any other provision of this act
31 to the contrary:

32 (a) On or before November 1, 2017, the Department of Health
33 and Human Services shall place on the Internet website maintained
34 by the Department the information prescribed by section 6 of this
35 act.

36 (b) On or before July 1, 2018, the manufacturer of a drug
37 included on the list described in section 6 of this act shall submit to
38 the Department a report which includes the information prescribed
39 by subsection 1 of section 7 of this act.

40 (c) On or before September 1, 2018, the Department shall
41 analyze the reports submitted pursuant to paragraph (b) and compile
42 and post on the Internet website maintained by the Department the
43 initial report required by subsection 2 of section 7 of this act.

44 2. As used in this section, "manufacturer" has the meaning
45 ascribed to it in section 2 of this act.



- 1 **Sec. 45.** 1. This section and section 44.5 of this act become
2 effective upon passage and approval.
- 3 2. Sections 27 and 28 of this act become effective on July 1,
4 2017.
- 5 3. Sections 1 to 9, inclusive, 11, 12, 13, 15, 16, 25, 26 and 27.5
6 of this act become effective upon passage and approval for the
7 purpose of adopting regulations and performing any other
8 administrative tasks that are necessary to carry out the provisions of
9 this act and on October 1, 2017, for all other purposes.
- 10 4. Sections 10, 17 to 24, inclusive, and 29 to 44, inclusive, of
11 this act become effective upon passage and approval for the purpose
12 of adopting regulations and performing any other administrative
13 tasks that are necessary to carry out the provisions of this act and on
14 January 1, 2018, for all other purposes.
- 15 5. Section 14 of this act becomes effective upon passage and
16 approval for the purpose of adopting regulations and performing any
17 other administrative tasks that are necessary to carry out the
18 provisions of this act and on May 1, 2018, for all other purposes.

