
SENATE BILL NO. 380—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE COMMITTEE TO CONDUCT
AN INTERIM STUDY CONCERNING THE
COSTS OF PRESCRIPTION DRUGS)

MARCH 26, 2021

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing the reporting of data concerning the prices of prescription drugs. (BDR 40-445)

FISCAL NOTE: Effect on Local Government: No.
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 certain entities that report information under the program for tracking and reporting of information concerning the pricing of prescription drugs to register with the Department of Health and Human Services and pay a registration fee; expanding the information that is reported; requiring additional entities to make a report; requiring certain reporting entities to affirm the accuracy of the information in the reports; authorizing the Department to take certain measures to enforce requirements to report information; revising requirements concerning the report of the Department on the pricing of prescription drugs; increasing the amount of certain administrative penalties; authorizing the Department to impose an administrative penalty against an entity that fails to register as required; excluding certain information from protection as a trade secret; and providing other matters properly relating thereto.



Legislative Counsel's Digest:

1 Existing law requires the Department of Health and Human Services to
2 compile: (1) a list of prescription drugs that the Department determines to be
3 essential for treating diabetes and asthma in this State; and (2) a list of such
4 prescription drugs that have been subject to a significant price increase. (NRS
5 439B.630) **Section 10** of this bill removes the limitation that drugs included on the
6 list of prescription drugs that have undergone a significant price increase must also
7 be included on the list of essential diabetes and asthma drugs, thereby requiring the
8 list to include all prescription drugs that have been subject to a significant price
9 increase.

10 Existing law requires the manufacturer of a prescription drug included on the
11 list of essential prescription drugs to submit to the Department an annual report that
12 contains certain information concerning the cost of the drug. (NRS 439B.635)
13 Existing law also requires the manufacturer of a drug included on the list of
14 prescription drugs that have undergone a significant price increase to submit to the
15 Department a report concerning the reasons for the cost increase. (NRS 439B.640)
16 **Section 11** of this bill additionally requires a manufacturer of a drug that is on the
17 list of prescription drugs that have undergone a substantial cost increase to submit
18 to the Department a report that contains information concerning the cost of the
19 drug.

20 Existing law requires a pharmacy benefit manager to report certain information
21 concerning prescription drugs to the Department. (NRS 439B.645) **Section 13** of
22 this bill revises and expands the information that a pharmacy benefit manager is
23 required to report. **Section 6** of this bill requires a wholesaler of prescription drugs
24 to report to the Department certain information concerning the drugs on the list of
25 essential diabetes and asthma drugs and the list of drugs that have undergone a
26 significant price increase. **Section 7** of this bill requires third parties that provide
27 coverage of prescription drugs in this State and are regulated under state law to
28 report to the Department certain information concerning spending by the third party
29 on prescription drugs. **Section 16** of this bill requires the Department to adopt
30 regulations establishing the form and manner in which wholesalers and third parties
31 must report that information. **Sections 6, 7 and 11-13** of this bill require a report
32 submitted by a manufacturer, pharmacy benefit manager, wholesaler or third party
33 to be accompanied by statement signed under penalty of perjury affirming the
34 accuracy of the information in the report.

35 **Section 5** of this bill requires each manufacturer, wholesaler, pharmacy benefit
36 manager or third party that is required to make a report to also register annually
37 with the Department. **Section 16** requires the Department to impose a fee for such
38 registration in an amount calculated to cover the cost of the program for the
39 reporting of information concerning the prices of prescription drugs, and **section 17**
40 of this bill eliminates provisions of existing law that require the suspension of
41 components of the program and duties of the Department concerning the program if
42 sufficient funds are not available. **Section 18** of this bill authorizes the Department
43 to impose an administrative penalty against a manufacturer, pharmacy benefit
44 manager, wholesaler or third party that fails to register.

45 Existing law provides that pharmacy benefit managers are not required to report
46 information relating to prescription drug coverage that is a part of a plan regulated
47 under the federal Employee Retirement Income Security Act, but that such a plan
48 may require a pharmacy benefit manager to report that information by contract.
49 (NRS 439B.645) In *Rutledge v. Pharm. Care Mgmt. Ass'n*, the United States
50 Supreme Court held that states are authorized to impose general requirements
51 governing pharmacy benefit managers on pharmacy benefit managers that manage
52 such coverage. (141 S. Ct. 474, 481 (2020)) **Section 13** removes the exemption for
53 such coverage from requirements for the reporting of information by pharmacy
54 benefit managers, thereby requiring a pharmacy benefit manager to report



55 information relating to such coverage regardless of whether they are required to do
56 so by contract.

57 Existing law requires the Department to analyze the information reported
58 concerning the prices of prescription drugs and compile a report concerning the
59 reasons for and effect of the pricing. (NRS 439B.650) **Section 14** of this bill: (1)
60 revises the information that must be included in that report; and (2) requires the
61 Department to present the findings in the report at a public hearing.

62 Existing law authorizes the Department to impose an administrative penalty
63 against a manufacturer, pharmacy benefit manager or nonprofit organization that
64 fails to report required information. (NRS 439B.695) **Section 18** increases the
65 amount of such an administrative penalty for manufacturers and pharmacy benefit
66 managers. **Section 18** additionally authorizes the imposition of an administrative
67 penalty against a wholesaler or third party that fails to report the information
68 required by **section 6 or 7**, as applicable. **Section 8** of this bill authorizes the
69 Department to: (1) conduct audits, hold public hearings and issue subpoenas to
70 enforce requirements concerning the reporting of information relating to
71 prescription drugs; and (2) upon finding that a violation has occurred, require the
72 submission of a plan of correction.

73 Existing law excludes information reported by manufacturers, pharmaceutical
74 sales representatives and pharmacy benefit managers from protection under trade
75 secret law in this State. (NRS 600A.030) **Section 19** of this bill similarly excludes
76 information reported by wholesalers and third parties from such protection.

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

1 **Section 1.** Chapter 439B of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 8, inclusive, of this
3 act.

4 **Sec. 2. “Third party” means:**

- 5 **1. An insurer, as that term is defined in NRS 679B.540;**
- 6 **2. A health benefit plan, as that term is defined in NRS**
7 **687B.470, for employees which provides coverage for prescription**
8 **drugs;**
- 9 **3. The Public Employees’ Benefits Program established**
10 **pursuant to subsection 1 of NRS 287.043;**
- 11 **4. A governing body of a county, school district, municipal**
12 **corporation, political subdivision, public corporation or other**
13 **local governmental agency that provides health coverage to**
14 **employees through a self-insurance reserve fund pursuant to**
15 **NRS 287.010;**
- 16 **5. The Department, with regard to Medicaid and the**
17 **Children’s Health Insurance Program; and**
- 18 **6. Any other insurer or organization providing coverage of**
19 **prescription drugs in accordance with state or federal law.**

20 **Sec. 3. “Unit” has the meaning ascribed to it in 42 C.F.R. §**
21 **414.802.**



1 **Sec. 4.** *“Wholesaler” has the meaning ascribed to it in*
2 *NRS 639.016.*

3 **Sec. 5.** *1. Except as otherwise provided in subsection 2, on*
4 *or before February 1 of each year, each manufacturer or*
5 *wholesaler that sells prescription drugs for distribution in this*
6 *State, each pharmacy benefit manager that manages prescription*
7 *drug coverage for covered persons in this State and each third*
8 *party that provides coverage of prescription drugs to persons in*
9 *this State shall register with the Department.*

10 *2. The requirements of this section do not apply to:*

11 *(a) A third party that issues only plans that are subject to the*
12 *Employee Retirement Income Security Act of 1974 in this State; or*

13 *(b) A third party that is a governmental entity.*

14 **Sec. 6.** *1. On or before April 1 of each year, a wholesaler*
15 *that sells a prescription drug that appears on the most current list*
16 *compiled by the Department pursuant to subsection 1 or 2 of NRS*
17 *439B.630 for use in this State shall prepare and submit to the*
18 *Department, in the form prescribed by the Department:*

19 *(a) A report which includes the information prescribed by*
20 *subsection 2; and*

21 *(b) A statement signed by the person responsible for compiling*
22 *the report affirming, under penalty of perjury, the accuracy of the*
23 *information in the report.*

24 *2. The report submitted pursuant to paragraph (a) of*
25 *subsection 1 must include, for each drug described in subsection*
26 *1:*

27 *(a) The current wholesale acquisition cost of the drug and the*
28 *minimum and maximum wholesale acquisition cost of the drug*
29 *during the immediately preceding calendar year;*

30 *(b) The total number of units of the drug sold by the*
31 *wholesaler for use in this State during the immediately preceding*
32 *calendar year;*

33 *(c) The number of units of the drug sold by the wholesaler*
34 *during the immediately preceding calendar year for use in this*
35 *State by:*

36 *(1) Recipients of Medicare;*

37 *(2) Recipients of Medicaid;*

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

40 *(4) Persons covered by commercial insurers; and*

41 *(5) Persons covered by third parties other than those*
42 *described in subparagraphs (1) to (4), inclusive;*

43 *(d) The total number of units of the drug projected to be sold*
44 *by the wholesaler for use in this State during the current calendar*
45 *year;*



1 (e) *The number of units of the drug projected to be sold by the*
2 *wholesaler for use in this State by persons in each category listed*
3 *in paragraph (c) during the current calendar year;*

4 (f) *The total amount of rebates, discounts and other price*
5 *concessions negotiated directly with the manufacturer of the drug*
6 *for sales of the drug for use in this State during the immediately*
7 *preceding calendar year and the amount of those rebates,*
8 *discounts and other price concessions which applied to sales of the*
9 *drug for use by persons in each category listed in paragraph (c);*

10 (g) *The total amount of rebates, discounts and other price*
11 *concessions negotiated directly with the manufacturer of the drug*
12 *that are projected to apply to sales of the drug for use in this State*
13 *during the current calendar year and the amount of those rebates,*
14 *discounts and other price concessions which are projected to apply*
15 *to sales of the drug for use by persons in each category listed in*
16 *paragraph (c);*

17 (h) *The total amount of discounts, dispensing fees and other*
18 *fees negotiated with pharmacies, pharmacy benefit managers and*
19 *other entities that administer pharmacy benefits for sales of the*
20 *drug for use in this State during the immediately preceding*
21 *calendar year and the amount of those discounts, dispensing fees*
22 *and other fees which applied to sales of the drug for use by*
23 *persons in each category listed in paragraph (c);*

24 (i) *The total amount of all discounts, dispensing fees and other*
25 *fees negotiated with pharmacies, pharmacy benefit managers and*
26 *other entities that administer pharmacy benefits which are*
27 *projected to apply to sales of the drug for use in this State during*
28 *the current calendar year and the amount of those discounts,*
29 *dispensing fees and other fees which are projected to apply to sales*
30 *of the drug for use by persons in each category listed in paragraph*
31 *(c);*

32 (j) *The total net income that the wholesaler received during the*
33 *immediately preceding calendar year for sales of the drug for use*
34 *in this State;*

35 (k) *The net income that the wholesaler received during the*
36 *immediately preceding calendar year for sales of the drug for use*
37 *in this State by persons in each category listed in paragraph (c);*

38 (l) *The total net income that the wholesaler projects to receive*
39 *during the current calendar year for sales of the drug for use in*
40 *this State;*

41 (m) *The net income that the wholesaler projects to receive*
42 *during the current calendar year for sales of the drug for use in*
43 *this State by persons in each category listed in paragraph (c); and*

44 (n) *Any other information prescribed by regulation of the*
45 *Department.*



1 **Sec. 7. 1.** *Except as otherwise provided in subsection 3, on*
2 *or before April 1 of each year, a third party that provides coverage*
3 *of prescription drugs to persons in this State shall submit to the*
4 *Department:*

5 *(a) A report which includes the information prescribed by*
6 *subsection 2; and*

7 *(b) A statement signed by the person responsible for compiling*
8 *the report under penalty of perjury affirming the accuracy of the*
9 *information in the report.*

10 2. *The report submitted pursuant to paragraph (a) of*
11 *subsection 1 must include, for the immediately preceding year:*

12 *(a) The 25 prescription drugs for which the third party spent*
13 *the largest total amount in this State, before any deductible,*
14 *copayment, coinsurance or other cost-sharing paid by covered*
15 *persons;*

16 *(b) The 25 prescription drugs for which the third party spent*
17 *the largest amount in this State per covered person who used the*
18 *drug, before any deductible, copayment, coinsurance or other*
19 *cost-sharing paid by covered persons;*

20 *(c) The 25 prescription drugs for which total spending by the*
21 *third party in this State, before any deductible, copayment,*
22 *coinsurance or other cost-sharing paid by covered persons,*
23 *increased by the largest amount;*

24 *(d) The 25 prescription drugs for which spending by the third*
25 *party in this State per covered person who used the drug, before*
26 *any deductible, copayment, coinsurance or other cost-sharing paid*
27 *by covered persons, increased by the largest amount;*

28 *(e) The total amount spent by the third party in this State on*
29 *prescription drugs, before any deductible, copayment, coinsurance*
30 *or other cost-sharing paid by covered persons;*

31 *(f) The total amount spent by the third party in this State on*
32 *each prescription drug included on a list compiled pursuant to*
33 *paragraphs (a) to (d), inclusive, before any deductible, copayment,*
34 *coinsurance or other cost-sharing paid by covered persons;*

35 *(g) The amount per covered person spent by the third party in*
36 *this State on prescription drugs;*

37 *(h) The amount per covered person spent by the third party in*
38 *this State on each prescription drug included on a list compiled*
39 *pursuant to paragraphs (a) to (d), inclusive;*

40 *(i) The amount of margins and fees paid directly by the third*
41 *party to pharmacy benefit managers during the immediately*
42 *preceding calendar year, in total and for each drug included on a*
43 *list compiled pursuant to paragraphs (a) to (d), inclusive;*

44 *(j) The amount of other retail discounts, price concessions and*
45 *fees paid by the third party during the immediately preceding*



1 *calendar year, in total and for each drug included on a list*
2 *compiled pursuant to paragraphs (a) to (d), inclusive; and*

3 *(k) Any other information prescribed by regulation of the*
4 *Department.*

5 *3. The requirements of this section do not apply to the*
6 *coverage of prescription drugs under a plan that is subject to the*
7 *Employee Retirement Income Security Act of 1974 or any*
8 *information relating to such coverage. The issuer of a such a plan*
9 *may elect to report the information prescribed by subsection 2.*

10 *4. As used in this section, "covered person" means a*
11 *policyholder, subscriber, enrollee or other person covered by a*
12 *third party.*

13 **Sec. 8. The Department may:**

14 *1. Audit the records of a manufacturer, pharmacy benefit*
15 *manager, wholesaler, third party or nonprofit organization to*
16 *ensure compliance with the provisions of NRS 439B.600 to*
17 *439B.695, inclusive, and sections 2 to 8, inclusive, of this act, and*
18 *ensure the accuracy of information reported pursuant to those*
19 *sections. A manufacturer, pharmacy benefit manager, wholesaler,*
20 *third party or nonprofit organization whose records are audited*
21 *pursuant to this subsection is responsible for the costs of the audit.*

22 *2. Hold public hearings relating to compliance with the*
23 *provisions of NRS 439B.600 to 439B.695, inclusive, and sections 2*
24 *to 8, inclusive, of this act, and may subpoena witnesses, financial*
25 *papers, records and documents in connection therewith. An order*
26 *requiring the filing of information or a subpoena issued pursuant*
27 *to this subsection must state the purpose for which it is issued. The*
28 *Department may administer oaths in any hearing.*

29 *3. Upon determining that a manufacturer, pharmacy benefit*
30 *manager, wholesaler, third party or nonprofit organization has*
31 *failed to comply with the provisions of NRS 439B.600 to 439B.695,*
32 *inclusive, and sections 2 to 8, inclusive, of this act, or has included*
33 *inaccurate information in a report made pursuant to those*
34 *sections, require the manufacturer, pharmacy benefit manager,*
35 *wholesaler, third party or nonprofit organization to submit a plan*
36 *of correction to the Department for approval.*

37 **Sec. 9. NRS 439B.600 is hereby amended to read as follows:**

38 *439B.600 As used in NRS 439B.600 to 439B.695, inclusive,*
39 *and sections 2 to 8, inclusive, of this act, unless the context*
40 *otherwise requires, the words and terms defined in NRS 439B.605*
41 *to 439B.620, inclusive, and sections 2, 3 and 4 of this act have the*
42 *meanings ascribed to them in those sections.*

43 **Sec. 10. NRS 439B.630 is hereby amended to read as follows:**

44 *439B.630 On or before February 1 of each year, the*
45 *Department shall compile:*



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

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

9 (a) The percentage increase in the Consumer Price Index,
10 ~~Medical-Care~~ *Prescription Drugs* Component during the
11 immediately preceding calendar year; or

12 (b) Twice the percentage increase in the Consumer Price Index,
13 ~~Medical-Care~~ *Prescription Drugs* Component during the
14 immediately preceding 2 calendar years.

15 **Sec. 11.** NRS 439B.635 is hereby amended to read as follows:

16 439B.635 *1.* On or before April 1 of each year, the
17 manufacturer of a prescription drug that appears on the most current
18 ~~list~~ *lists* compiled by the Department pursuant to ~~subsection 1 of~~
19 NRS 439B.630 shall prepare and submit to the Department, in the
20 form prescribed by the Department ~~1-1~~:

21 (a) A report which *includes the information prescribed by*
22 *subsection 2; and*

23 (b) *A statement signed by the person responsible for compiling*
24 *the report under penalty of perjury affirming the accuracy of the*
25 *information in the report.*

26 *2. The report submitted pursuant to paragraph (a) of*
27 *subsection 1 must include 1-*

28 ~~1-1~~ *, for each drug described in subsection 1:*

29 (a) The costs of producing the drug;

30 ~~2-1~~ (b) The total administrative expenditures relating to the
31 drug, including marketing and advertising costs;

32 ~~3-1~~ (c) The profit that the manufacturer has earned from the
33 drug and the percentage of the manufacturer's total profit for the
34 period during which the manufacturer has marketed the drug for sale
35 that is attributable to the drug;

36 ~~4-1~~ (d) The total amount of financial assistance that the
37 manufacturer has provided through any patient prescription
38 assistance program;

39 ~~5-1~~ (e) The cost associated with coupons provided directly to
40 consumers and for programs to assist consumers in paying
41 copayments, and the cost to the manufacturer attributable to the
42 redemption of those coupons and the use of those programs;

43 ~~6-1~~ (f) The wholesale acquisition cost of the drug;

44 ~~7-1~~ (g) A history of any increases in the wholesale acquisition
45 cost of the drug over the 5 years immediately preceding the date on



1 which the report is submitted, including the amount of each such
2 increase expressed as a percentage of the total wholesale acquisition
3 cost of the drug, the month and year in which each increase became
4 effective and any explanation for the increase;

5 ~~{8.}~~ (h) The aggregate amount of all rebates that the
6 manufacturer has provided to pharmacy benefit managers for sales
7 of the drug within this State; and

8 ~~{9.}~~ (i) Any additional information prescribed by regulation of
9 the Department for the purpose of analyzing the cost of prescription
10 drugs that appear on the ~~{list}~~ lists compiled pursuant to ~~{subsection~~
11 ~~1-6}~~ NRS 439B.630, trends in those costs and rebates available for
12 such drugs.

13 **Sec. 12.** NRS 439B.640 is hereby amended to read as follows:

14 439B.640 1. On or before April 1 of a year in which a drug is
15 included on the list compiled pursuant to subsection 2 of NRS
16 439B.630, the manufacturer of the drug shall submit to the
17 Department ~~{a}~~:

18 (a) A report describing the reasons for the increase in the
19 wholesale acquisition cost of the drug described in that subsection
20 ~~{}~~; and

21 (b) A statement signed by the person responsible for compiling
22 the report under penalty of perjury affirming the accuracy of the
23 information in the report.

24 2. The report submitted pursuant to paragraph (a) of
25 subsection 1 must include, without limitation:

26 ~~{1.}~~ (a) A list of each factor that has contributed to the increase;

27 ~~{2.}~~ (b) The percentage of the total increase that is attributable
28 to each factor;

29 ~~{3.}~~ (c) An explanation of the role of each factor in the increase;
30 and

31 ~~{4.}~~ (d) Any other information prescribed by regulation by the
32 Department.

33 **Sec. 13.** NRS 439B.645 is hereby amended to read as follows:

34 439B.645 1. ~~{Except as otherwise provided in subsection 2,~~
35 ~~on}~~ On or before April 1 of each year, a pharmacy benefit manager
36 shall submit to the Department ~~{a}~~:

37 (a) A report which includes ~~{}~~ the information prescribed by
38 subsection 2; and

39 (b) A statement signed under penalty of perjury affirming the
40 accuracy of the information in the report.

41 2. The report submitted pursuant to paragraph (a) of
42 subsection 1 must include:

43 (a) The current wholesale acquisition cost of each drug
44 included on the lists compiled by the Department pursuant to
45 NRS 439B.630 and the minimum and maximum wholesale



1 acquisition cost of each such drug during the immediately
2 preceding year;

3 (b) The total number of units of each drug included on the lists
4 compiled by the Department pursuant to NRS 439B.630 for which
5 the pharmacy benefit manager negotiated directly with the
6 manufacturer for purchases of the drug for use in in this State
7 during the immediately preceding calendar year;

8 (c) The number of units of each drug included on the lists
9 compiled by the Department pursuant to NRS 439B.630 for which
10 the pharmacy benefit manager negotiated directly with the
11 manufacturer during the immediately preceding calendar year for
12 purchases of the drug for use in this State by:

13 (1) Recipients of Medicare;

14 (2) Recipients of Medicaid;

15 (3) Persons covered by third parties that are governmental
16 entities which are not described in subparagraph (1) or (2);

17 (4) Persons covered by commercial insurers;

18 (5) Persons covered by third parties other than those
19 described in subparagraphs (1) to (4), inclusive;

20 (d) The total number of units of each drug included on the lists
21 compiled by the Department pursuant to NRS 439B.630 that the
22 pharmacy benefit manager projects to negotiate directly with the
23 manufacturer for purchases of the drug for use in this State
24 during the current calendar year;

25 (e) The number of units of each drug included on the lists
26 compiled by the Department pursuant to NRS 439B.630 for which
27 the pharmacy benefit manager projects to negotiate directly with
28 the manufacturer during the current calendar year for purchases
29 of the drug for use in this State by persons in each category listed
30 in paragraph (c);

31 (f) The ~~total~~ amount of ~~all~~ rebates , discounts and other
32 price concessions that the pharmacy benefit manager negotiated
33 with manufacturers during the immediately preceding calendar year
34 for purchases of prescription drugs included on ~~the~~ each list
35 compiled by the Department pursuant to ~~subsection 1 of~~ NRS
36 439B.630 ~~;~~ for use in this State, in total for each list and for each
37 drug;

38 ~~(b)~~ (g) The amount of rebates, discounts and other price
39 concessions that the pharmacy benefit manager projects to
40 negotiate with manufacturers during the current calendar year for
41 purchases of prescription drugs included on each list compiled by
42 the Department pursuant to NRS 439B.630 for use in this State, in
43 total for each list and for each drug;



1 (h) The ~~total~~ amount of ~~all~~ *the rebates, discounts and other*
2 *price concessions* described in paragraph ~~(a)~~ (f) that were retained
3 by the pharmacy benefit manager ~~;~~ ~~and~~
4 ~~—(e)~~, *in total for each list compiled by the Department pursuant*
5 *to NRS 439B.630 and for each drug included on such a list;*

6 (i) *The amount of the rebates, discounts and other price*
7 *concessions described in paragraph (g) which are projected to be*
8 *retained by the pharmacy benefit manager, in total for each list*
9 *compiled by the Department pursuant to NRS 439B.630 and for*
10 *each drug included on such a list;*

11 (j) The ~~total~~ amount of ~~all~~ rebates, *discounts and other price*
12 *concessions* described in paragraph ~~(a)~~ (f) that were negotiated
13 for purchases of ~~such~~ *prescription* drugs for use by ~~;~~

14 ~~—(1) Recipients of Medicare;~~

15 ~~—(2) Recipients of Medicaid;~~

16 ~~—(3) Persons covered by third parties that are governmental~~
17 ~~entities which are not described in subsection (1) or (2);~~

18 ~~—(4) Persons covered by third parties that are not~~
19 ~~governmental entities; and~~

20 ~~—(5) Persons covered by a plan described in subsection 2 to~~
21 ~~the extent required by a contract entered into pursuant to subsection~~
22 ~~3.~~

23 ~~—2. Except as otherwise provided in subsection 3, the~~
24 ~~requirements of this section do not apply to the coverage of~~
25 ~~prescription drugs under a plan that is subject to the Employee~~
26 ~~Retirement Income Security Act of 1974 or any information relating~~
27 ~~to such coverage.~~

28 ~~—3. A plan described in subsection 2 may, by contract, require a~~
29 ~~pharmacy benefit manager that manages the coverage of~~
30 ~~prescription drugs under the plan to comply with the requirements~~
31 ~~of this section.] persons in each category listed in paragraph (c), in~~
32 ~~total for each list compiled by the Department pursuant to NRS~~
33 ~~439B.630 and for each drug included on such a list;~~

34 (k) *The amount of rebates, discounts and other price*
35 *concessions described in paragraph (g) that are projected to be*
36 *negotiated for purchases of prescription drugs for use by persons*
37 *in each category listed in paragraph (c), in total for each list*
38 *compiled by the Department pursuant to NRS 439B.630 and for*
39 *each drug included on such a list;*

40 (l) *The amount of discounts, dispensing fees or other fees that*
41 *the pharmacy benefit manager negotiated with pharmacies,*
42 *prescription drug networks or pharmacy services administrative*
43 *organizations during the immediately preceding calendar year for*
44 *purchases of prescription drugs included on each list compiled by*



1 *the Department pursuant to NRS 439B.630 for use in this State, in*
2 *total for each list and for each drug;*

3 *(m) The amount of discounts, dispensing fees or other fees*
4 *that the pharmacy benefit manager projects to negotiate with*
5 *pharmacies, prescription drug networks or pharmacy services*
6 *administrative organizations during the current calendar year for*
7 *purchases of prescription drugs included on each list compiled by*
8 *the Department pursuant to NRS 439B.630 for use in this State, in*
9 *total for each list and for each drug;*

10 *(n) The amount of discounts, dispensing fees or other fees*
11 *described in paragraph (l) which were negotiated for purchases of*
12 *prescription drugs for use by persons in each category prescribed*
13 *by paragraph (c), in total for each list compiled by the Department*
14 *pursuant to NRS 439B.630 and for each drug included on such a*
15 *list;*

16 *(o) The amount of discounts, dispensing fees or other fees*
17 *described in paragraph (m) which are projected to be negotiated*
18 *for purchases of prescription drugs for use by persons in each*
19 *category prescribed by paragraph (c), in total for each list*
20 *compiled by the Department pursuant to NRS 439B.630 and for*
21 *each drug included on such a list;*

22 *(p) The net income received by the pharmacy benefit manager*
23 *during the immediately preceding calendar year for purchases*
24 *prescription drugs included on each list compiled by the*
25 *Department pursuant to NRS 439B.630 for use in this State, in*
26 *total for each list and for each drug;*

27 *(q) The net income that the pharmacy benefit manager*
28 *projects to receive during the current calendar year for purchases*
29 *of prescription drugs included on each list compiled by the*
30 *Department pursuant to NRS 439B.630 for use in this State, in*
31 *total for each list and for each drug;*

32 *(r) The net income described in paragraph (p) which was*
33 *derived from purchases of prescription drugs for use by persons in*
34 *each category prescribed by paragraph (c), in total for each list*
35 *compiled by the Department pursuant to NRS 439B.630 and for*
36 *each drug included on such a list;*

37 *(s) The net income described in paragraph (q) which is*
38 *projected to derive from purchases of prescription drugs for use by*
39 *persons in each category prescribed by paragraph (c), in total for*
40 *each list compiled by the Department pursuant to NRS 439B.630*
41 *and for each drug included on such a list; and*

42 *(t) Any other information prescribed by regulation of the*
43 *Department.*



1 **Sec. 14.** NRS 439B.650 is hereby amended to read as follows:
2 439B.650 On or before June 1 of each year, the Department
3 shall ~~analyze~~ :

4 1. *Analyze* the information submitted pursuant to NRS
5 439B.635, 439B.640 and 439B.645 *and sections 6 and 7 of this act*
6 and compile a report on the price of ~~the~~ prescription drugs . ~~that~~
7 ~~appear on the most current lists compiled by the Department~~
8 ~~pursuant to NRS 439B.630.]~~ *The report:*

9 (a) *Must include, without limitation, a separate analysis of the*
10 *information reported by manufacturers, pharmacy benefit*
11 *managers, wholesalers and third parties,* the reasons for any
12 increases in ~~those~~ *the* prices *of prescription drugs in this State*
13 and the effect of those prices on overall spending on prescription
14 drugs , *insurance premiums and cost-sharing* in this State ~~. The~~
15 ~~report may~~ ; and

16 (b) *May* include, without limitation, opportunities for persons
17 and entities in this State to lower the cost of *prescription* drugs ~~for~~
18 ~~the treatment of asthma and diabetes~~ while maintaining access to
19 such drugs.

20 2. *Present the findings in the report at a public hearing.*

21 **Sec. 15.** NRS 439B.670 is hereby amended to read as follows:
22 439B.670 1. Except as otherwise provided in subsection 2 ,
23 ~~and subsection 3 of NRS 439B.660,~~ the Department shall:

24 (a) Place or cause to be placed on the Internet website
25 maintained by the Department:

26 (1) The information provided by each pharmacy pursuant to
27 NRS 439B.655;

28 (2) The information compiled by a nonprofit organization
29 pursuant to NRS 439B.665 if such a report is submitted pursuant to
30 paragraph (b) of subsection 1 of that section;

31 (3) The lists of prescription drugs compiled by the
32 Department pursuant to NRS 439B.630;

33 (4) The wholesale acquisition cost of each prescription drug ,
34 *as* reported pursuant to NRS 439B.635 ~~;~~ *and 439B.645 and*
35 *section 6 of this act;* and

36 (5) The reports compiled by the Department pursuant to NRS
37 439B.650 and 439B.660.

38 (b) Ensure that the information placed on the Internet website
39 maintained by the Department pursuant to paragraph (a) is
40 organized so that each individual pharmacy, manufacturer and
41 nonprofit organization has its own separate entry on that website;
42 and

43 (c) Ensure that the usual and customary price that each
44 pharmacy charges for each prescription drug that is on the list



1 prepared pursuant to NRS 439B.625 and that is stocked by the
2 pharmacy:

3 (1) Is presented on the Internet website maintained by the
4 Department in a manner which complies with the requirements of
5 NRS 439B.675; and

6 (2) Is updated not less frequently than once each calendar
7 quarter.

8 ↪ Nothing in this subsection prohibits the Department from
9 determining the usual and customary price that a pharmacy charges
10 for a prescription drug by extracting or otherwise obtaining such
11 information from claims reported by pharmacies to the Medicaid
12 program.

13 2. If a pharmacy is part of a larger company or corporation or a
14 chain of pharmacies or retail stores, the Department may present the
15 pricing information pertaining to such a pharmacy in such a manner
16 that the pricing information is combined with the pricing
17 information relative to other pharmacies that are part of the same
18 company, corporation or chain, to the extent that the pricing
19 information does not differ among those pharmacies.

20 3. The Department may establish additional or alternative
21 procedures by which a consumer who is unable to access the
22 Internet or is otherwise unable to receive the information described
23 in subsection 1 in the manner in which it is presented by the
24 Department may obtain that information:

25 (a) In the form of paper records;

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

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

29 4. As used in this section, "usual and customary price" means
30 the usual and customary charges that a pharmacy charges to the
31 general public for a drug, as described in 42 C.F.R. § 447.512.

32 **Sec. 16.** NRS 439B.685 is hereby amended to read as follows:

33 439B.685 The Department shall adopt such regulations as it
34 determines to be necessary or advisable to carry out the provisions
35 of NRS 439B.600 to 439B.695, inclusive **§ 16**, *and sections 2 to 8,*
36 *inclusive, of this act.* Such regulations must provide for, without
37 limitation:

38 1. Notice to consumers stating that:

39 (a) Although the Department will strive to ensure that
40 consumers receive accurate information regarding pharmacies,
41 prescription drugs and nonprofit organizations including, without
42 limitation, the information made available on the Department's
43 Internet website pursuant to NRS 439B.670, the Department is
44 unable to guarantee the accuracy of such information;



1 (b) If a consumer follows an Internet link from the Internet
2 website maintained by the Department to an Internet website not
3 maintained by the Department, the Department is unable to
4 guarantee the accuracy of any information made available on that
5 Internet website; and

6 (c) The Department advises consumers to contact a pharmacy,
7 manufacturer or nonprofit organization directly to verify the
8 accuracy of any information regarding the pharmacy, a prescription
9 drug manufactured by the manufacturer or the nonprofit
10 organization, as applicable, which is made available to consumers
11 pursuant to NRS 439B.600 to 439B.695, inclusive ~~6.1~~, *and sections*
12 *2 to 8, inclusive, of this act;*

13 2. Procedures adopted to direct consumers who have questions
14 regarding the program described in NRS 439B.600 to 439B.695,
15 inclusive, *and sections 2 to 8, inclusive, of this act* to contact the
16 Office for Consumer Health Assistance of the Department;

17 3. Provisions in accordance with which the Department will
18 allow an Internet link to the information made available on the
19 Department's Internet website pursuant to NRS 439B.670 to be
20 placed on other Internet websites managed or maintained by other
21 persons and entities, including, without limitation, Internet websites
22 managed or maintained by:

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

25 (b) Nonprofit organizations and advocacy groups;

26 4. Procedures pursuant to which consumers, pharmacies,
27 manufacturers and nonprofit organizations may report to the
28 Department that information made available to consumers pursuant
29 to NRS 439B.600 to 439B.695, inclusive, *and sections 2 to 8,*
30 *inclusive, of this act* is inaccurate;

31 5. *Procedures for registration pursuant to section 5 of this act*
32 *and the fee for such registration, which must be calculated to*
33 *produce the revenue necessary to cover the cost of the activities*
34 *conducted by the Department pursuant to NRS 439B.600 to*
35 *439B.695, inclusive, and sections 2 to 8, inclusive, of this act;*

36 6. The form and manner in which pharmacies are to provide to
37 the Department the information described in NRS 439B.655; ~~and~~

38 ~~6.1~~ 7. The form and manner in which manufacturers are to
39 provide to the Department the information described in NRS
40 439B.635, 439B.640 and 439B.660;

41 ~~7.1~~ 8. The form and manner in which pharmacy benefit
42 managers are to provide to the Department the information
43 described in NRS 439B.645;



1 ~~[8.]~~ 9. The form and manner in which pharmaceutical sales
2 representatives are to provide to the Department the information
3 described in NRS 439B.660;

4 ~~[9.]~~ 10. The form and manner in which nonprofit organizations
5 are to provide to the Department the information described in NRS
6 439B.665, if required; ~~and~~

7 ~~—10.]~~ 11. *The form and manner in which wholesalers are to*
8 *provide the Department with the information described in section*
9 *6 of this act;*

10 12. *The form and manner in which third parties are to*
11 *provide the Department with the information described in section*
12 *7 of this act; and*

13 13. Standards and criteria pursuant to which the Department
14 may remove from its Internet website information regarding a
15 pharmacy or an Internet link to the Internet website maintained by a
16 pharmacy, or both, if the Department determines that the pharmacy
17 has:

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

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

22 **Sec. 17.** NRS 439B.690 is hereby amended to read as follows:

23 439B.690 ~~[1.—On or before July 1 of each odd-numbered~~
24 ~~year, the Department shall make a determination of whether~~
25 ~~sufficient money is available and authorized for expenditure to fund~~
26 ~~one or more components of the programs and other duties of the~~
27 ~~Department relating to NRS 439B.600 to 439B.695, inclusive.~~

28 ~~—2.—The Department shall temporarily suspend any components~~
29 ~~of the program or duties of the Department for which it determines~~
30 ~~pursuant to subsection 1 that sufficient money is not available.~~

31 ~~—3.]~~ The Department may apply for and accept any available
32 grants and may accept any bequests, devises, donations or gifts from
33 any public or private source to carry out the provisions of NRS
34 439B.600 to 439B.695, inclusive ~~[.]~~, *and sections 2 to 8, inclusive,*
35 *of this act.*

36 **Sec. 18.** NRS 439B.695 is hereby amended to read as follows:

37 439B.695 1. If a pharmacy that is licensed under the
38 provisions of chapter 639 of NRS and is located within the State of
39 Nevada fails to provide to the Department the information required
40 to be provided pursuant to NRS 439B.655 or fails to provide such
41 information on a timely basis, and the failure was not caused by
42 excusable neglect, technical problems or other extenuating
43 circumstances, the Department may impose against the pharmacy an
44 administrative penalty of not more than \$500 for each day of such
45 failure.



1 2. *If a manufacturer, pharmacy benefit manager, wholesaler*
2 *or third party fails to register with the Department as required by*
3 *section 5 of this act or fails to register on a timely basis, the*
4 *Department may impose against the manufacturer, pharmacy*
5 *benefit manager, wholesaler or third party, as applicable, an*
6 *administrative penalty of not more than \$30,000 for each day of*
7 *such failure.*

8 3. If a manufacturer fails to provide to the Department the
9 information required by NRS 439B.635, 439B.640 or 439B.660, a
10 pharmacy benefit manager fails to provide to the Department the
11 information required by NRS 439B.645, a ~~nonprofit organization~~
12 ~~fails to post or provide to the Department, as applicable, the~~
13 ~~information required by NRS 439B.665~~ *wholesaler fails to provide*
14 *to the Department the information required by section 6 of this*
15 *act, a third party fails to provide to the Department the*
16 *information required by section 7 of this act, or a manufacturer,*
17 *pharmacy benefit manager, wholesaler or* ~~nonprofit organization~~
18 *third party fails to* ~~post or~~ *provide* ~~as applicable,~~ such
19 information on a timely basis, and the failure was not caused by
20 excusable neglect, technical problems or other extenuating
21 circumstances, the Department may impose against the
22 manufacturer, pharmacy benefit manager, *wholesaler* or ~~nonprofit~~
23 ~~organization, as applicable,~~ *third party* an administrative penalty of
24 not more than ~~[\$5,000]~~ *\$30,000* for each day of such failure.

25 ~~[3.]~~ 4. *If a nonprofit organization fails to post or provide to*
26 *the Department the information required by NRS 439B.665 or*
27 *fails to post or provide such information on a timely basis, and the*
28 *failure was not caused by excusable neglect, technical problems or*
29 *other extenuating circumstances, the Department may impose*
30 *against the nonprofit organization an administrative penalty of not*
31 *more than \$5,000 for each day of such failure.*

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

36 ~~[4.]~~ 6. Any money collected as administrative penalties
37 pursuant to this section must be accounted for separately and used
38 by the Department to establish and carry out programs to provide
39 education concerning asthma and diabetes and prevent those
40 diseases.

41 **Sec. 19.** NRS 600A.030 is hereby amended to read as follows:
42 600A.030 As used in this chapter, unless the context otherwise
43 requires:

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

45 (a) Theft;



1 (b) Bribery;
2 (c) Misrepresentation;
3 (d) Willful breach or willful inducement of a breach of a duty to
4 maintain secrecy;

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

8 (f) Espionage through electronic or other means.

9 2. "Misappropriation" means:

10 (a) Acquisition of the trade secret of another by a person by
11 improper means;

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

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

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

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

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

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

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

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

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

32 4. "Person" means a natural person, corporation, business trust,
33 estate, trust, partnership, association, joint venture, government,
34 governmental subdivision or agency, or any other legal or
35 commercial entity.

36 5. "Trade secret":

37 (a) Means information, including, without limitation, a formula,
38 pattern, compilation, program, device, method, technique, product,
39 system, process, design, prototype, procedure, computer
40 programming instruction or code that:

41 (1) Derives independent economic value, actual or potential,
42 from not being generally known to, and not being readily
43 ascertainable by proper means by the public or any other persons
44 who can obtain commercial or economic value from its disclosure or
45 use; and



1 (2) Is the subject of efforts that are reasonable under the
2 circumstances to maintain its secrecy.

3 (b) Does not include any information that a manufacturer is
4 required to report pursuant to NRS 439B.635 or 439B.640,
5 information that a pharmaceutical sales representative is required to
6 report pursuant to NRS 439B.660 ~~for~~, information that a pharmacy
7 benefit manager is required to report pursuant to NRS 439B.645,
8 *information that a wholesaler is required to report pursuant to*
9 *section 6 of this act or information that a third party is required to*
10 *report pursuant to section 7 of this act*, to the extent that such
11 information is required to be disclosed by those sections.

12 **Sec. 20.** Notwithstanding the provisions of NRS 218D.430 and
13 218D.435, a committee, other than the Assembly Standing
14 Committee on Ways and Means and the Senate Standing Committee
15 on Finance, may vote on this act before the expiration of the period
16 prescribed for the return of a fiscal note in NRS 218D.475. This
17 section applies retroactively from and after March 22, 2021.

