

ASSEMBLY BILL NO. 434—COMMITTEE ON
HEALTH AND HUMAN SERVICES

MARCH 27, 2023

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing prescription drugs.
(BDR 57-652)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

~

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

AN ACT relating to prescription drugs; prohibiting a pharmacy benefit manager or health carrier from taking certain actions against entities that participate in a federal program to facilitate the discounted purchase of prescription drugs; prohibiting a program administered by the Department of Health and Human Services to provide therapeutics to persons with human immunodeficiency virus from taking similar actions; imposing certain limitations on the use of money available to administer the program to provide therapeutics to persons with human immunodeficiency virus; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing federal law creates a program, known as the 340B Program, by which
2 certain hospitals and other facilities that provide health care to low-income patients
3 are able to purchase certain drugs at discounted rates. (42 U.S.C. § 256b) Existing
4 law prohibits a pharmacy benefit manger from prohibiting a pharmacist or
5 pharmacy from taking certain actions to assist a person in obtaining a less
6 expensive alternative or generic drug. (NRS 683A.179) Existing law imposes
7 certain requirements relating to the operation of health carriers. (NRS 687B.470-
8 687B.850) **Sections 1, 3, 6 and 7** of this bill prohibit pharmacy benefit managers
9 and health carriers, including governmental entities that provide coverage for
10 employees, from: (1) discriminating against a covered entity that participates in the
11 340B Program to purchase drugs at a discounted rate or a pharmacy that contracts
12 with such an entity with regard to reimbursement; (2) taking certain actions to limit
13 the ability of such an entity or pharmacy to receive the full benefit of participating
14 in that program; (3) excluding such an entity or pharmacy from an insurance



15 network because the entity or pharmacy participates in that program; (4) restricting
16 the ability of a person to receive a 340B drug; or (5) taking certain other actions to
17 limit the participation of an entity or pharmacy in the Program. **Sections 2, 4 and 5**
18 of this bill make conforming changes to indicate the proper placement of **sections 1**
19 **and 3** in the Nevada Revised Statutes.

20 Existing law authorizes the Department of Health and Human Services to
21 administer a program pursuant to federal law to provide therapeutics to treat certain
22 persons who have been diagnosed with the human immunodeficiency virus. (NRS
23 439.529) **Section 9** of this bill prescribes certain limitations on the use of money
24 allocated to the program. **Section 8** of this bill requires the program to take certain
25 actions and refrain from certain activity to ensure that a covered provider that
26 participates in the 340B Program to purchase drugs at a discounted rate or a
27 pharmacy that contracts with such a provider receives the full benefit of
28 participating in the Program. **Section 8** additionally prohibits the program
29 administered by the Department from: (1) denying a request from such a covered
30 provider or contract pharmacy to participate in the network of the program in
31 certain circumstances; or (2) engaging in certain discrimination against a covered
32 provider or contract pharmacy.

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

1 **Section 1.** Chapter 683A of NRS is hereby amended by
2 adding thereto a new section to read as follows:

3 *1. A pharmacy benefit manager shall not:*

4 *(a) Discriminate against a covered entity, a contract pharmacy*
5 *or a 340B drug in the amount of reimbursement for any item or*
6 *service or the procedures for obtaining such reimbursement;*

7 *(b) Assess any fee, chargeback, clawback or adjustment*
8 *against a covered entity or contract pharmacy on the basis that the*
9 *covered entity or contract pharmacy dispenses a 340B drug or*
10 *otherwise limit the ability of a covered entity or contract pharmacy*
11 *to receive the full benefit of purchasing the 340B drug at or below*
12 *the ceiling price, as calculated pursuant to 42 U.S.C. § 256b(a)(1);*

13 *(c) Exclude a covered entity or contract pharmacy from any*
14 *network because the covered entity or contract pharmacy*
15 *dispenses a 340B drug;*

16 *(d) Restrict the ability of a person to receive a 340B drug;*

17 *(e) Restrict the methods by which a covered entity or contract*
18 *pharmacy may dispense or deliver a 340B drug or the entity*
19 *through which a covered entity may dispense or deliver such a*
20 *drug in a manner that does not apply to drugs that are not 340B*
21 *drugs; or*

22 *(f) Prohibit a covered entity or contract pharmacy from*
23 *purchasing a 340B drug or interfere with the ability of a covered*
24 *entity or contract pharmacy to purchase a 340B drug.*

25 *2. As used in this section:*



1 (a) "340B drug" means a prescription drug that is purchased
2 by an entity that participates in the 340B Program, and that is
3 dispensed by a covered entity.

4 (b) "340B Program" means the drug pricing program
5 established by the United States Secretary of Health and Human
6 Services pursuant to section 340B of the Public Health Service
7 Act, 42 U.S.C. § 256b, as amended.

8 (c) "Contract pharmacy" means a pharmacy that enters into a
9 contract with a covered entity to dispense 340B drugs and provide
10 related pharmacy services to the patients of the covered entity.

11 (d) "Covered entity" has the meaning ascribed to it in 42
12 U.S.C. § 256b(a)(4).

13 (e) "Network" means a defined set of providers of health care
14 who are under contract with a pharmacy benefit manager or third
15 party to provide health care services to covered persons.

16 **Sec. 2.** NRS 683A.171 is hereby amended to read as follows:

17 683A.171 As used in NRS 683A.171 to 683A.179, inclusive,
18 and section 1 of this act, unless the context otherwise requires, the
19 words and terms defined in NRS 683A.172 to 683A.176, inclusive,
20 have the meanings ascribed to them in those sections.

21 **Sec. 3.** Chapter 687B of NRS is hereby amended by adding
22 thereto a new section to read as follows:

23 1. A pharmacy benefit manager shall not:

24 (a) Discriminate against a covered entity, a contract pharmacy
25 or a 340B drug in the amount of reimbursement for any item or
26 service or the procedures for obtaining such reimbursement;

27 (b) Assess any fee, chargeback, clawback or adjustment
28 against a covered entity or contract pharmacy on the basis that the
29 covered entity or contract pharmacy dispenses a 340B drug or
30 otherwise limit the ability of a covered entity or contract pharmacy
31 to receive the full benefit of purchasing the 340B drug at or below
32 the ceiling price, as calculated pursuant to 42 U.S.C. § 256b(a)(1);

33 (c) Exclude a covered entity or contract pharmacy from any
34 network because the covered entity or contract pharmacy
35 dispenses a 340B drug;

36 (d) Restrict the ability of a person to receive a 340B drug;

37 (e) Restrict the methods by which a covered entity or contract
38 pharmacy may dispense or deliver a 340B drug or the entity
39 through which a covered entity may dispense or deliver such a
40 drug in a manner that does not apply to drugs that are not 340B
41 drugs; or

42 (f) Prohibit a covered entity or contract pharmacy from
43 purchasing a 340B drug or interfere with the ability of a covered
44 entity or contract pharmacy to purchase a 340B drug.

45 2. As used in this section:



1 (a) "340B drug" means a prescription drug that is purchased
2 by an entity that participates in the 340B Program, and that is
3 dispensed by a covered entity.

4 (b) "340B Program" means the drug pricing program
5 established by the United States Secretary of Health and Human
6 Services pursuant to section 340B of the Public Health Service
7 Act, 42 U.S.C. § 256b, as amended.

8 (c) "Contract pharmacy" means a pharmacy that enters into a
9 contract with a covered entity to dispense 340B drugs and provide
10 related pharmacy services to the patients of the covered entity.

11 (d) "Covered entity" has the meaning ascribed to it in 42
12 U.S.C. § 256b(a)(4).

13 (e) "Pharmacy benefit manager" has the meaning ascribed to
14 it in NRS 683A.174.

15 **Sec. 4.** NRS 687B.600 is hereby amended to read as follows:

16 687B.600 As used in NRS 687B.600 to 687B.850, inclusive,
17 **and section 3 of this act**, unless the context otherwise requires, the
18 words and terms defined in NRS 687B.602 to 687B.665, inclusive,
19 have the meanings ascribed to them in those sections.

20 **Sec. 5.** NRS 687B.670 is hereby amended to read as follows:

21 687B.670 If a health carrier offers or issues a network plan, the
22 health carrier shall, with regard to that network plan:

23 1. Comply with all applicable requirements set forth in NRS
24 687B.600 to 687B.850, inclusive **⚡**, **and section 3 of this act**;

25 2. As applicable, ensure that each contract entered into for the
26 purposes of the network plan between a participating provider of
27 health care and the health carrier complies with the requirements set
28 forth in NRS 687B.600 to 687B.850, inclusive **⚡**, **and section 3 of**
29 **this act**; and

30 3. As applicable, ensure that the network plan complies with
31 the requirements set forth in NRS 687B.600 to 687B.850, inclusive
32 **⚡**, **and section 3 of this act**.

33 **Sec. 6.** NRS 287.010 is hereby amended to read as follows:

34 287.010 1. The governing body of any county, school
35 district, municipal corporation, political subdivision, public
36 corporation or other local governmental agency of the State of
37 Nevada may:

38 (a) Adopt and carry into effect a system of group life, accident
39 or health insurance, or any combination thereof, for the benefit of its
40 officers and employees, and the dependents of officers and
41 employees who elect to accept the insurance and who, where
42 necessary, have authorized the governing body to make deductions
43 from their compensation for the payment of premiums on the
44 insurance.



1 (b) Purchase group policies of life, accident or health insurance,
2 or any combination thereof, for the benefit of such officers and
3 employees, and the dependents of such officers and employees, as
4 have authorized the purchase, from insurance companies authorized
5 to transact the business of such insurance in the State of Nevada,
6 and, where necessary, deduct from the compensation of officers and
7 employees the premiums upon insurance and pay the deductions
8 upon the premiums.

9 (c) Provide group life, accident or health coverage through a
10 self-insurance reserve fund and, where necessary, deduct
11 contributions to the maintenance of the fund from the compensation
12 of officers and employees and pay the deductions into the fund. The
13 money accumulated for this purpose through deductions from the
14 compensation of officers and employees and contributions of
15 the governing body must be maintained as an internal service fund
16 as defined by NRS 354.543. The money must be deposited in a state
17 or national bank or credit union authorized to transact business in
18 the State of Nevada. Any independent administrator of a fund
19 created under this section is subject to the licensing requirements of
20 chapter 683A of NRS, and must be a resident of this State. Any
21 contract with an independent administrator must be approved by the
22 Commissioner of Insurance as to the reasonableness of
23 administrative charges in relation to contributions collected and
24 benefits provided. The provisions of NRS 686A.135, 687B.352,
25 687B.408, 687B.723, 687B.725, 689B.030 to 689B.050, inclusive,
26 689B.265, 689B.287 and 689B.500 *and section 3 of this act* apply
27 to coverage provided pursuant to this paragraph, except that the
28 provisions of NRS 689B.0378, 689B.03785 and 689B.500 only
29 apply to coverage for active officers and employees of the
30 governing body, or the dependents of such officers and employees.

31 (d) Defray part or all of the cost of maintenance of a self-
32 insurance fund or of the premiums upon insurance. The money for
33 contributions must be budgeted for in accordance with the laws
34 governing the county, school district, municipal corporation,
35 political subdivision, public corporation or other local governmental
36 agency of the State of Nevada.

37 2. If a school district offers group insurance to its officers and
38 employees pursuant to this section, members of the board of trustees
39 of the school district must not be excluded from participating in the
40 group insurance. If the amount of the deductions from compensation
41 required to pay for the group insurance exceeds the compensation to
42 which a trustee is entitled, the difference must be paid by the trustee.

43 3. In any county in which a legal services organization exists,
44 the governing body of the county, or of any school district,
45 municipal corporation, political subdivision, public corporation or



1 other local governmental agency of the State of Nevada in the
2 county, may enter into a contract with the legal services
3 organization pursuant to which the officers and employees of the
4 legal services organization, and the dependents of those officers and
5 employees, are eligible for any life, accident or health insurance
6 provided pursuant to this section to the officers and employees, and
7 the dependents of the officers and employees, of the county, school
8 district, municipal corporation, political subdivision, public
9 corporation or other local governmental agency.

10 4. If a contract is entered into pursuant to subsection 3, the
11 officers and employees of the legal services organization:

12 (a) Shall be deemed, solely for the purposes of this section, to be
13 officers and employees of the county, school district, municipal
14 corporation, political subdivision, public corporation or other local
15 governmental agency with which the legal services organization has
16 contracted; and

17 (b) Must be required by the contract to pay the premiums or
18 contributions for all insurance which they elect to accept or of which
19 they authorize the purchase.

20 5. A contract that is entered into pursuant to subsection 3:

21 (a) Must be submitted to the Commissioner of Insurance for
22 approval not less than 30 days before the date on which the contract
23 is to become effective.

24 (b) Does not become effective unless approved by the
25 Commissioner.

26 (c) Shall be deemed to be approved if not disapproved by the
27 Commissioner within 30 days after its submission.

28 6. As used in this section, "legal services organization" means
29 an organization that operates a program for legal aid and receives
30 money pursuant to NRS 19.031.

31 **Sec. 7.** NRS 287.04335 is hereby amended to read as follows:

32 287.04335 If the Board provides health insurance through a
33 plan of self-insurance, it shall comply with the provisions of NRS
34 686A.135, 687B.352, 687B.409, 687B.723, 687B.725, 689B.0353,
35 689B.255, 695C.1723, 695G.150, 695G.155, 695G.160, 695G.162,
36 695G.1635, 695G.164, 695G.1645, 695G.1665, 695G.167,
37 695G.1675, 695G.170 to 695G.174, inclusive, 695G.176, 695G.177,
38 695G.200 to 695G.230, inclusive, 695G.241 to 695G.310, inclusive,
39 and 695G.405, *and section 3 of this act*, in the same manner as an
40 insurer that is licensed pursuant to title 57 of NRS is required to
41 comply with those provisions.

42 **Sec. 8.** Chapter 439 of NRS is hereby amended by adding
43 thereto a new section to read as follows:

44 *1. If the Department administers a program pursuant to*
45 *NRS 439.529:*



1 (a) *The program may not prohibit or interfere with the ability*
2 *of a covered provider or contract pharmacy to purchase,*
3 *administer or dispense, as applicable, a 340B drug, regardless of*
4 *whether the drug is dispensed or administered to a person*
5 *participating in the program or whether the program pays all, part*
6 *or none of the cost of the drug.*

7 (b) *When a covered provider or contract pharmacy dispenses*
8 *or administers a drug that is eligible to be a 340B drug to a person*
9 *participating in the program and the program pays the insurance*
10 *premium of the person and the copayment, coinsurance or other*
11 *cost-sharing obligation of the person, the program shall pay to the*
12 *covered provider or contract pharmacy the full amount of the*
13 *copayment, coinsurance or other cost-sharing obligation,*
14 *regardless of whether the drug is a 340B drug.*

15 (c) *The program may not deny a request from a covered*
16 *provider or contract pharmacy to be included in the network of the*
17 *program if the covered provider or contract pharmacy:*

18 (1) *Meets the terms and conditions for participation in the*
19 *network of the program; and*

20 (2) *Requests to participate in the network of the program.*

21 (d) *The program shall not treat a covered provider or contract*
22 *pharmacy differently from an entity that does not participate in the*
23 *340B Program or a pharmacy that has contracted with a covered*
24 *provider, as applicable, in any manner, including, without*
25 *limitation:*

26 (1) *In any regulation, guidance, policy, procedure or*
27 *contract;*

28 (2) *With regard to participation in the network of the*
29 *program; or*

30 (3) *In any matter relating to the dispensing of drugs or*
31 *billing and reimbursement for drugs.*

32 2. *As used in this section:*

33 (a) *“340B drug” means a prescription drug that is purchased*
34 *under the 340B Program.*

35 (b) *“340B Program” means the drug pricing program*
36 *established by the United States Secretary of Health and Human*
37 *Services pursuant to section 340B of the Public Health Service*
38 *Act, 42 U.S.C. § 256b, as amended.*

39 (c) *“Contract pharmacy” means a pharmacy that enters into a*
40 *contract with a covered provider to dispense 340B drugs and*
41 *provide related pharmacy services to the patients of the covered*
42 *provider.*

43 (d) *“Covered entity” has the meaning ascribed to it in 42*
44 *U.S.C. § 256b(a)(4).*



1 (e) *“Covered provider” means a covered entity other than the*
2 *program established pursuant to NRS 439.529.*

3 (f) *“Network” means a defined set of providers of health care*
4 *who are under contract with any program established pursuant to*
5 *NRS 439.529 to provide health care services to persons who*
6 *participate in the program.*

7 **Sec. 9.** NRS 439.529 is hereby amended to read as follows:

8 439.529 1. The Department may, to the extent that money is
9 available, administer a program pursuant to 42 U.S.C. §§ 300ff-21
10 et seq. to provide therapeutics to treat certain persons who have
11 been diagnosed with the human immunodeficiency virus and to
12 prevent the serious deterioration of the health of such persons. The
13 program may include the provision of subsidies and pharmaceutical
14 services.

15 2. The Director shall:

16 (a) Establish the criteria for eligibility for participation in the
17 program administered pursuant to this section, which must be in
18 accordance with the provisions of 42 U.S.C. §§ 300ff-21 et seq.; and

19 (b) Prescribe the manner in which the program will be
20 administered and services will be provided.

21 3. The Department may use any other program administered by
22 the Department to facilitate the provision of subsidies and services
23 pursuant to this section, including, without limitation, the provision
24 of subsidies for pharmaceutical services to senior citizens and
25 persons with disabilities pursuant to NRS 439.635 to 439.690,
26 inclusive. If the Department uses another program to facilitate the
27 provision of subsidies and services pursuant to this section, the
28 Department shall not commingle the money available to carry out
29 the provisions of this section and the money available to carry out
30 the other program.

31 4. Money available to carry out the provisions of this section
32 must be accounted for separately by the Department. *The*
33 *Department shall use such money only to pay for or subsidize the*
34 *cost of:*

35 (a) *Drugs approved by the United States Food and Drug*
36 *Administration;*

37 (b) *Insurance premiums, deductibles, copayments,*
38 *coinsurance or other cost-sharing obligations associated with*
39 *private health insurance; and*

40 (c) *Services that improve access to, adherence to and*
41 *monitoring of drug treatment.*

42 **Sec. 10.** 1. This section becomes effective upon passage and
43 approval.

44 2. Sections 1 to 9, inclusive, of this act become effective:



- 1 (a) Upon passage and approval for the purpose of adopting any
2 regulations and performing any other preparatory administrative
3 tasks that are necessary to carry out the provisions of this act; and
4 (b) On January 1, 2024, for all other purposes.

