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ASSEMBLY BILL NO. 384

**PROPOSED AMENDMENT by the Department of Human Resources and PhRMA
for discussion by the
SENATE COMMITTEE ON HUMAN RESOURCES AND FACILITIES**

Section 1. Chapter 422 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. *As used in sections 2 to 12, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Committee" means the Pharmacy and Therapeutics Committee established pursuant to section 7 of this act.*

Sec. 4. *"Drug Utilization Review Board" means the board established pursuant to 42 U.S.C. § 1396r-8(g)(3).*

Sec. 5. 1. *The Department shall, by regulation, develop a list of preferred prescription drugs to be used for the Medicaid program.*

2. *The Department shall, by regulation, establish a list of prescription drugs which may not be included on the list of preferred prescription drugs. The list established pursuant to this subsection must include, without limitation:*

(a) Atypical and typical antipsychotic medications that are prescribed for the treatment of a mental illness of a patient who is receiving services pursuant to Medicaid, including, without limitation, prescriptions for atypical and conventional antipsychotic medications;

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(b) Prescription drugs that are prescribed for the treatment of the human immunodeficiency virus or acquired immunodeficiency syndrome, including, without limitation, protease inhibitors and antiretroviral medications;

(c) Anticonvulsant medications;

(d) Antirejection medications for organ transplants;

(e) Antidiabetic medications; and

(f) Antihemophilic medications.

3. The Department may not include on the list of preferred prescription drugs any prescription drug which the Committee identifies as not appropriate for inclusion on the list of preferred prescription drugs.

4. The regulations must provide that the Committee makes the final determination of:

(a) Whether a class of therapeutic prescription drugs is included on the list of preferred prescription drugs;

(b) What therapeutically equivalent prescription drugs will be reviewed for inclusion on the list of preferred prescription drugs; and

(c) What prescription drugs should not be included on the list of preferred prescription drugs based on continuity of care concerning a specific diagnosis, condition, class of therapeutic prescription drugs or medical specialty.

5. The regulations must provide that each new pharmaceutical product and each existing pharmaceutical product for which there is new clinical evidence supporting its inclusion on the list of preferred prescription drugs must be made available pursuant to the Medicaid program with prior authorization until the Committee reviews the product or the evidence.

Sec. 6. 1. The Department shall, by regulation, establish and manage the use by the Medicaid program of step therapy and prior authorization for prescription drugs.

2. The Drug Utilization Review Board shall:

(a) Advise the Department concerning the use by the Medicaid program of step therapy and prior authorization for prescription drugs;

(b) Develop step therapy protocols and prior authorization policies and procedures for use by the Medicaid program for prescription drugs;

(c) Review and approve, based on clinical evidence and best clinical practice guidelines and without consideration of the cost of the prescription drugs being considered, step therapy protocols used by the Medicaid program for prescription drugs.

3. The Department shall not require the Drug Utilization Review Board to develop, review, or approve prior authorization policies necessary for the operation of the list of preferred prescription drugs developed for the Medicaid program pursuant to section 5 of this act.

4. The Department shall accept recommendations from the Drug Utilization Review Board as the basis for developing or revising step therapy protocols and prior authorization policies used by the Medicaid program.

Sec. 7. 1. The Director shall create a Pharmacy and Therapeutics Committee within the Department. The Committee must consist of at least nine members and not more than 11 members appointed by the Governor based on recommendations from the Director.

2. The Governor shall appoint to the Committee health care professionals who have knowledge and expertise in one or more of the following:

(a) The clinically appropriate prescribing of outpatient prescription drugs that are covered by Medicaid;

(b) The clinically appropriate dispensing and monitoring of outpatient prescription drugs that are covered by Medicaid;

(c) The review of, evaluation of and intervention in the use of prescription drugs; and

(d) Medical quality assurance.

3. At least one-third of the members of the Committee and not more than 51 percent of the members of the Committee must be active physicians licensed to practice medicine in this state, at least one of whom must be an active psychiatrist licensed to practice medicine in this state. At least one-third of the members of the Committee and not more than 51 percent of the members of the Committee must be either active pharmacists registered in this state or persons in this state with doctoral degrees in pharmacy.

4. A person must not be appointed to the Committee if he is employed by, compensated by in any manner, has a financial interest in, or is otherwise affiliated with a business or corporation that manufactures prescription drugs.

Sec. 8. 1. *The Governor shall appoint the Chairman of the Committee from among its members.*

2. After the initial terms, the term of each member of the Committee is 2 years. A member may be reappointed.

3. A vacancy occurring in the membership of the Committee must be filled for the remainder of the unexpired term in the same manner as the original appointment.

4. The Committee shall meet at least once every 3 months and at the times and places specified by a call of the Chairman of the Committee.

5. A majority of the members of the Committee constitutes a quorum for the transaction of business, and the affirmative vote of a majority of the members of the Committee is required to take action.

Sec. 9. 1. Members of the Committee serve without compensation, except that a member of the Committee is entitled, while engaged in the business of the Committee, to receive the per diem allowance and travel expenses provided for state officers and employees generally.

2. Each member of the Committee who is an officer or employee of the State of Nevada or a local government must be relieved from his duties without loss of his regular compensation so that he may prepare for and attend meetings of the Committee and perform any work necessary to carry out the duties of the Committee in the most timely manner practicable. A state agency or local governmental entity shall not require an officer or employee who is a member of the Committee to make up the time that he is absent from work to carry out his duties as a member of the Committee or to use annual vacation or compensatory time for the absence.

Sec. 10. 1. The Department shall, by regulation, set forth the duties of the Committee which must include, without limitation:

(a) Identifying the prescription drugs which should be included on the list of preferred prescription drugs developed by the Department for the Medicaid program;

(b) Identifying classes of therapeutic prescription drugs for its review and performing a clinical analysis of each drug included in each class that is identified for review; and

(c) Reviewing at least annually all classes of therapeutic prescription drugs on the list of preferred prescription drugs developed by the Department for the Medicaid program.

2. The Department shall, by regulation, require the Committee to:

- (a) Base its decisions on evidence of clinical efficacy and safety without consideration of the cost of the prescription drugs being considered by the Committee;*
- (b) Review new pharmaceutical products in as expeditious a manner as possible; and*
- (c) Consider new clinical evidence supporting the inclusion of an existing pharmaceutical product on the list of preferred prescription drugs developed by the Department for the Medicaid program in as expeditious a manner as possible.*

3. The Department shall, by regulation, authorize the Committee to:

- (a) In carrying out its duties, exercise clinical judgment and analyze peer review articles, published studies, and other medical and scientific information; and*
- (b) Establish subcommittees to analyze specific issues that arise as the Committee carries out its duties.*

Sec. 11. 1. The Advisory Committee to the Pharmacy and Therapeutics Committee and to the Drug Utilization Review Board consisting of three members is hereby created in the Department to advise the Committee and the Drug Utilization Review Board concerning prescription drugs that are used by seniors, persons who are mentally ill or persons with disabilities.

2. The Director shall appoint to the Advisory Committee:

- (a) One member appointed from a list of persons provided to the Department by the American Association of Retired Persons or any successor organization;*
- (b) One member appointed from a list of persons provided to the Department by the Alliance for the Mentally Ill of Nevada or any successor organization; and*
- (c) One member appointed from a list of persons provided to the Department by the Statewide Independent Living Council established in this state pursuant to 29 U.S.C. § 796d.*

3. *The Director shall appoint the Chairman of the Advisory Committee from among its members.*

4. *After the initial terms, the term of each member of the Advisory Committee is 2 years. A member may be reappointed. A vacancy occurring in the membership of the Advisory Committee must be filled for the remainder of the unexpired term in the same manner as the original appointment.*

5. *Members of the Advisory Committee serve without compensation, except that a member of the Advisory Committee is entitled, while engaged in the business of the Advisory Committee, to receive the per diem allowance and travel expenses provided for state officers and employees generally.*

6. *Each member of the Advisory Committee who is an officer or employee of the State of Nevada or a local government must be relieved from his duties without loss of his regular compensation so that he may prepare for and attend meetings of the Advisory Committee and perform any work necessary to carry out the duties of the Advisory Committee in the most timely manner practicable. A state agency or local governmental entity shall not require an officer or employee who is a member of the Advisory Committee to make up the time that he is absent from work to carry out his duties as a member of the Advisory Committee or to use annual vacation or compensatory time for the absence.*

Sec. 12. 1. *The Department may, to carry out its duties set forth in sections 2 to 12, inclusive, of this act and to administer the provisions of sections 2 to 12, inclusive, of this act:*

(a) Adopt regulations; and

(b) Enter into contracts for any services.

2. Any regulations adopted by the Department pursuant to sections 2 to 12, inclusive, of this act must be adopted in accordance with the provisions of chapter 241 of NRS.

Sec. 13. NRS 232.320 is hereby amended to read as follows:

232.320 1. Except as otherwise provided in subsection 2, the Director:

(a) Shall appoint, with the consent of the Governor, administrators of the divisions of the Department, who are respectively designated as follows:

- (1) The Administrator of the Aging Services Division;
- (2) The Administrator of the Health Division;
- (3) The State Welfare Administrator;
- (4) The Administrator of the Division of Child and Family Services; and
- (5) The Administrator of the Division of Health Care Financing and Policy.

(b) Shall administer, through the divisions of the Department, the provisions of chapters 210, 423, 424, 425, 427A, 432A to 442, inclusive, 446 to 450, inclusive, of NRS, NRS 127.220 to 127.310, inclusive, 422.001 to 422.410, inclusive, **and sections 2 to 12, inclusive, of this act**, 422.580, 432.010 to 432.139, inclusive, 444.003 to 444.430, inclusive, and 445A.010 to 445A.055, inclusive, and all other provisions of law relating to the functions of the divisions of the Department, but is not responsible for the clinical activities of the Health Division or the professional line activities of the other divisions.

(c) Shall, after considering advice from agencies of local governments and nonprofit organizations which provide social services, adopt a master plan for the provision of human services in this state. The Director shall revise the plan biennially and deliver a copy of the plan to the Governor and the Legislature at the beginning of each regular session. The plan must: