

(Reprinted with amendments adopted on June 1, 2007)

SECOND REPRINT

A.B. 232

ASSEMBLY BILL NO. 232—ASSEMBLYMEN LESLIE, BUCKLEY, HORNE, MCCLAIN, OCEGUERA, ALLEN, ANDERSON, ARBERRY, ATKINSON, BEERS, BOBZIEN, CLABORN, CONKLIN, DENIS, GERHARDT, HOGAN, KIHUEN, KIRKPATRICK, KOIVISTO, MABEY, MANENDO, MORTENSON, MUNFORD, OHRENSCHALL, PARKS, PARNELL, PIERCE, SEGERBLOM AND SMITH

MARCH 1, 2007

JOINT SPONSORS: SENATORS WIENER, TITUS, CARE, COFFIN, LEE, MCGINNESS, NOLAN, SCHNEIDER AND WOODHOUSE

Referred to Committee on Health and Human Services

SUMMARY—Requires the Department of Health and Human Services to make available to consumers certain information relating to pharmacies and the prices of commonly prescribed prescription drugs. (BDR 40-856)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Contains Appropriation not included in Executive Budget.

~

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

AN ACT relating to the Department of Health and Human Services; requiring the Department to make available to consumers certain information relating to pharmacies and the prices of commonly prescribed prescription drugs; requiring the Department to make certain determinations before performing certain duties; providing an administrative penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 **Section 3** of this bill requires the Retail Association of Nevada or its successor
- 2 to compile a list of not less than 100 prescription drugs, and their generic
- 3 equivalents, that are most commonly prescribed to residents of this State. **Sections**



* A B 2 3 2 R 2 *

4 5-8 of this bill require the Department of Health and Human Services to: (1)
5 combine the contents of the list with usual and customary pricing information
6 received from pharmacies that are licensed by the State Board of Pharmacy; and (2)
7 present the combined information on the Department's Internet website so that
8 consumers may compare the prices currently being charged by those pharmacies for
9 those prescription drugs. By regulation, links to such information on the
10 Department's website may be placed on the Internet websites of other persons and
11 entities, including pharmacies and other governmental entities. **Section 4** of this bill
12 requires pharmacies that are licensed by the State Board of Pharmacy and located in
13 the State of Nevada to provide to the Department, at least once each month, the
14 usual and customary prices that the pharmacy charges for the prescription drugs on
15 the list of most-prescribed drugs compiled by the Retail Association of Nevada, as
16 well as certain contact information for the pharmacy. Pharmacies that are licensed
17 by the State Board of Pharmacy but located outside the State of Nevada may, but
18 are not required to, provide such information. **Section 9** of this bill allows the
19 Department to accept grants, donations, gifts and other public and private money to
20 carry out the provisions of this bill. **Section 9** also requires the Department to
21 determine at the beginning of each fiscal year whether sufficient money is available
22 to fund one or more components of the programs and duties of the Department
23 relating to **sections 2-10** of this bill. **Section 10** of this bill provides that if a
24 pharmacy is required to provide information to the Department pursuant to **section**
25 **4** and the pharmacy, without good cause, fails to do so or fails to do so in a timely
26 manner, the Department may impose an administrative penalty of up to \$500 for
27 each day on which such a failure occurs. This bill excludes institutional pharmacies
28 from the application of its provisions.

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 10, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 10, inclusive, of this act,*
5 *unless the context otherwise requires, "pharmacy" means every*
6 *store or shop licensed by the State Board of Pharmacy where*
7 *drugs, controlled substances, poisons, medicines or chemicals are*
8 *stored or possessed, or dispensed or sold at retail, or displayed for*
9 *sale at retail, or where prescriptions are compounded or*
10 *dispensed. The term does not include an institutional pharmacy as*
11 *defined in NRS 639.0085.*

12 **Sec. 3.** *The Retail Association of Nevada or its successor*
13 *shall:*

14 1. *Compile a list of not less than the 100 brand name*
15 *prescription drugs most commonly prescribed to residents of this*
16 *State;*

17 2. *Ensure that the list compiled pursuant to subsection 1 sets*
18 *forth a separate entry for the generic equivalent, if any, of each*
19 *brand name prescription drug included on the list; and*



3. At least once each calendar quarter, update the list compiled pursuant to subsection 1 and transmit the list to the Department.

Sec. 4. 1. Except as otherwise provided in subsections 2 and 3, each pharmacy shall, in accordance with the regulations adopted pursuant to section 8 of this act, provide to the Department:

(a) Information that a consumer may use to locate, contact or otherwise do business with the pharmacy, including, without limitation:

(1) The name of the pharmacy;

(2) The physical address of the pharmacy; and

(3) The phone number of the pharmacy;

(b) If the pharmacy maintains an electronic mail address, the electronic mail address of the pharmacy;

(c) If the pharmacy maintains an Internet website, the Internet address of that website; and

(d) Not less frequently than once each month:

(1) For each prescription drug that is on the list compiled pursuant to section 3 of this act and that is stocked by the pharmacy, the usual and customary price that the pharmacy is currently charging for the prescription drug; and

(2) For each generic equivalent that is on the list compiled pursuant to section 3 of this act and that is stocked by the pharmacy, the usual and customary price that the pharmacy is currently charging for the generic equivalent.

2. If a pharmacy is not located within the State of Nevada, the pharmacy may, but is not required to, provide to the Department the information described in subsection 1.

3. If a pharmacy is part of a larger company or corporation or a chain of pharmacies or retail stores, the parent company or corporation may provide to the Department the information described in subsection 1.

4. As used in this section, "usual and customary price" means the usual and customary charges that a provider charges to the general public for a drug, as described in 42 C.F.R. § 447.331.

Sec. 5. 1. Except as otherwise provided in subsection 2, the Department shall:

(a) Place or cause to be placed on the Internet website maintained by the Department the information provided by each pharmacy pursuant to section 4 of this act;

(b) Ensure that the information provided by each pharmacy pursuant to section 4 of this act and placed on the Internet website maintained by the Department is organized so that each individual pharmacy has its own separate entry on that website; and



(c) Ensure that the pricing information provided by each pharmacy pursuant to section 4 of this act and placed on the Internet website maintained by the Department:

(1) Is presented in a manner which complies with the requirements of section 6 of this act; and

(2) Is updated not less frequently than once each month.

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

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

(a) In the form of paper records;

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

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

Sec. 6. 1. Except as otherwise provided in this section, the Department shall ensure that the list of prescription drugs compiled pursuant to section 3 of this act and the information that pharmacies provide pursuant to section 4 of this act are combined and presented to consumers in such a manner that a consumer may easily compare the prices for particular prescription drugs, and their generic equivalents, that are currently charged by:

(a) Pharmacies located within the same city, county or zip code in which the consumer resides;

(b) Internet pharmacies; and

(c) Pharmacies that provide mail order service to residents of Nevada.

↪ The requirements of paragraphs (b) and (c) apply only to the extent that information regarding such pharmacies is made available to the Department.

2. As used in this section, "Internet pharmacy" has the meaning ascribed to it in NRS 639.00865.

Sec. 7. The Department and its members, officers and employees are not liable civilly or criminally for any act, omission, error or technical problem that results in:

1. The failure to provide to consumers information regarding a pharmacy, including, without limitation, the prices charged by



1 *the pharmacy for the prescription drugs and generic equivalents*
2 *that are on the list compiled pursuant to section 3 of this act; or*

3 2. *The providing to consumers of incorrect information*
4 *regarding a pharmacy, including, without limitation, the prices*
5 *charged by the pharmacy for the prescription drugs and generic*
6 *equivalents that are on the list compiled pursuant to section 3 of*
7 *this act.*

8 **Sec. 8.** *The Department shall adopt such regulations as it*
9 *determines to be necessary or advisable to carry out the provisions*
10 *of sections 2 to 10, inclusive, of this act. Such regulations must*
11 *provide for, without limitation:*

12 1. *Notice to consumers stating that:*

13 (a) *Although the Department will strive to ensure that*
14 *consumers receive accurate information regarding pharmacies,*
15 *including, without limitation, the prices charged by those*
16 *pharmacies for the prescription drugs and generic equivalents that*
17 *are on the list compiled pursuant to section 3 of this act, the*
18 *Department is unable to guarantee the accuracy of such*
19 *information;*

20 (b) *If a consumer follows an Internet link from the Internet*
21 *website maintained by the Department to an Internet website*
22 *maintained by a pharmacy, the Department is unable to guarantee*
23 *the accuracy of any information made available on the Internet*
24 *website maintained by the pharmacy; and*

25 (c) *The Department advises consumers to contact a pharmacy*
26 *directly to verify the accuracy of any information regarding the*
27 *pharmacy which is made available to consumers pursuant to*
28 *sections 2 to 10, inclusive, of this act;*

29 2. *Procedures adopted cooperatively with the Office of the*
30 *Governor to direct consumers who have questions regarding the*
31 *program described in sections 2 to 10, inclusive, of this act to*
32 *contact the Office for Consumer Health Assistance in the Office of*
33 *the Governor;*

34 3. *Provisions in accordance with which the Department will*
35 *allow an Internet link to the information provided by each*
36 *pharmacy pursuant to section 4 of this act and made available on*
37 *the Department's Internet website to be placed on other Internet*
38 *websites managed or maintained by other persons and entities,*
39 *including, without limitation, Internet websites managed or*
40 *maintained by:*

41 (a) *Pharmacies;*

42 (b) *Other governmental entities, including, without limitation,*
43 *the State Board of Pharmacy and the Office of the Governor; and*

44 (c) *Nonprofit organizations and advocacy groups;*



* A B 2 3 2 R 2 *

4. Procedures pursuant to which consumers and pharmacies may report to the Department that information made available to consumers pursuant to sections 2 to 10, inclusive, of this act is inaccurate;

5. The form and manner in which pharmacies are to provide to the Department the information described in section 4 of this act; and

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

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

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

(c) Violated any state or federal law governing the practice of pharmacy.

Sec. 9. 1. On or before July 1 of each odd-numbered year, the Department shall make a determination of whether sufficient money is available and authorized for expenditure to fund one or more components of the programs and other duties of the Department relating to sections 2 to 10, inclusive, of this act.

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

3. The Department may apply for and accept any available grants and may accept any bequests, devises, donations or gifts from any public or private source to carry out the provisions of sections 2 to 10, inclusive, of this act.

Sec. 10. If a pharmacy that is licensed under the provisions of chapter 639 of NRS and is located within the State of Nevada fails to provide to the Department the information required to be provided pursuant to section 4 of this act or fails to provide such information on a timely basis, and the failure was not caused by excusable neglect, technical problems or other extenuating circumstances, the Department may impose against the pharmacy an administrative penalty of not more than \$500 for each day of such failure.

Sec. 11. NRS 639.2802 is hereby amended to read as follows:
639.2802 ~~{Prescription}~~ In addition to any applicable requirements set forth in sections 2 to 10, inclusive, of this act,



* A B 2 3 2 R 2 *

prescription price information must be made available, upon request, by a pharmacist or practitioner who dispenses drugs.

Sec. 12. NRS 639.28025 is hereby amended to read as follows:

639.28025 ~~{Every}~~ *In addition to any applicable requirements set forth in sections 2 to 10, inclusive, of this act, every* practitioner who dispenses drugs shall post on the premises in a place conspicuous to customers and easily accessible and readable by customers a notice, provided by the Board, advising customers that a price list of drugs and professional services is available to them upon request.

Sec. 13. (Deleted by amendment.)

Sec. 14. 1. This section and section 9 of this act become effective upon passage and approval.

2. Sections 1 to 8, inclusive, 10, 11 and 12 of this act become effective on October 1, 2007.

