Amendment No. 1016

Senate Amendment to Senate Bill No. 378 First Reprint (BDR 40-574)

Proposed by: Senate Committee on Finance

Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION		Initial and Date	SENATE ACTION		Initial and Date
Adopted ☐	Lost ☐		Adopted ☐	Lost ☐	
Concurred In ☐	Not ☐		Concurred In ☐	Not ☐	
Receded ☐	Not ☐		Receded ☐	Not ☐	

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) variations of **green bold underlining** is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

EWR/RBL Date: 5/29/2019

S.B. No. 378—Revises provisions relating to the pricing of prescription drugs.
(BDR 40-574)

SENATE BILL NO. 378–SENATOR CANCELA

MARCH 20, 2019

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to ~~[the pricing of]~~ prescription drugs. (BDR ~~[40-574)]~~ **18-574)**

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; ~~[establishing the Prescription Drug Affordability Board and the Prescription Drug Affordability Stakeholder Council; imposing certain requirements to prevent conflicts of interest involving a member of the Board; authorizing the Board to employ certain persons; authorizing the Board to review the prices of certain prescription drugs; providing for the confidentiality of certain information obtained by the Board; authorizing the Board to prescribe an upper payment limit for the purchase by a governmental entity of a prescription drug that meets certain requirements after such a review; authorizing written appeals to the Board; requiring the Board to submit an annual report to the Legislature;]~~ revising provisions concerning coverage of prescription drugs under Medicaid and the Children's Health Insurance Program; **revising provisions governing restrictions imposed on the list of preferred prescription drugs to be used for the Medicaid program; revising the criteria for selecting prescription drugs for inclusion on the list; replacing the Pharmacy and Therapeutics Committee with the Silver State Scripts Board;** authorizing certain public and nonprofit insurers to use the preferred prescription drug list for Medicaid as their formulary; **revising provisions governing the duties of pharmacy benefit managers;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law requires a manufacturer of prescription drugs to report certain information relating to the prices of drugs determined by the Department of Health and Human Services to be essential for treating diabetes in this State. (NRS 439B.635-439B.645) Existing law requires the Department to annually analyze that information and compile a report concerning the price of those drugs. (NRS 439B.650) Section 12 of this bill establishes the Prescription Drug Affordability Board and provides for the appointment of regular and alternate members of the Board. Section 12: (1) requires each such member to have expertise in the economics of health care or the practice of clinical medicine; and (2) prohibits a member of the board from holding certain positions with a manufacturer, pharmacy benefit manager, health carrier or~~

~~wholesaler or a trade association of such entities. Section 13 of this bill prescribes requirements governing the procedure of the Board. Section 13 additionally requires a member of the Board to recuse himself or herself from certain decisions and prohibits a member of the Board from accepting certain financial benefits, gifts or donations. Sections 12 and 13 require the disclosure and publication of certain information concerning a conflict of interest involving a member of the Board. Section 14 of this bill provides for the appointment of an Executive Director, a General Counsel and other employees of the Board. Section 13 prohibits an employee of the Board from accepting certain gifts and donations. Section 15 of this bill establishes the Prescription Drug Affordability Stakeholder Council and prescribes the qualifications of the members of the Council.~~

~~Section 16 of this bill establishes the Prescription Drug Affordability Account to pay for the expenses of the Board and the Council.~~

~~Section 18 of this bill requires the Board to identify prescription drugs that meet certain criteria indicating that the price of the prescription drug may be creating significant challenges for insurers and patients in this State. Section 18 requires the Board, in consultation with the Council, to determine whether to conduct a review to determine whether the price of a prescription drug identified by the Board as meeting those criteria is creating significant challenges for insurers and patients in this State. Section 19 of this bill prescribes the criteria the Board must consider when conducting such a review. Section 20 of this bill authorizes the Board to: (1) use certain information concerning the price of a prescription drug when conducting such a review; and (2) take certain measures to acquire such information. Sections 13, 20, 27 and 28 of this bill provide for the confidentiality of proprietary information considered by the Board. Section 24 of this bill requires the Department to provide to the Board any information concerning the price of essential diabetes drugs and certain other information upon request.~~

~~Beginning on January 1, 2022, section 21 of this bill authorizes the Board to prescribe an upper payment limit for all purchases by governmental entities of a prescription drug for which the Board determines that the price of the drug is creating significant challenges for insurers and patients in this State. Section 26 of this bill exempts such upper payment limits from the requirements applicable to regulations of state agencies generally. Sections 29.6, 31.5 and 35.5 of this bill prohibit Medicaid, the Public Employees' Benefits Program and insurance plans for local government employees from paying an amount for a prescription drug that exceeds the prescribed upper payment limit.~~

~~Section 22 of this bill authorizes a person aggrieved by a decision of the Board to submit a written appeal to the Board. Section 23 of this bill: (1) authorizes the Board to adopt regulations and enter into contracts; and (2) requires the Board to submit to the Legislature an annual report concerning trends in prescription drug pricing and the reviews conducted by the Board. Sections 38.3-38.9 of this bill require the Board to study certain issues relating to the pricing of prescription drugs.~~

Existing law requires the Department of Health and Human Services to administer the Medicaid program. (NRS 422.270) **Section 31.15** of this bill requires any contract between the Department ~~[of Health and Human Services]~~ and a pharmacy benefit manager **or health maintenance organization** to provide services related to prescription drug coverage under Medicaid or the Children's Health Insurance Program to require the pharmacy benefit manager **or health maintenance organization, as applicable,** to provide to the Department any information concerning such services provided pursuant to the contract. **Section 31.15 additionally requires any health maintenance organization that enters into such a contract with the Department to provide all rebates received through the purchase of prescription drugs pursuant to the contract to the Department, except for an administrative fee.** If the Department does not enter into such a contract, **section 31.15** also requires the Department to directly manage and coordinate such services. ~~[Section 31.25 of this bill prohibits the Department from contracting with a managed care organization for any services related to coverage of prescription drugs for recipients of Medicaid.]~~ **Section 31.2 of this bill provides for an annual audit of any contract between the Department and a pharmacy benefit manager or health maintenance organization entered into pursuant to section 31.15.**

Existing law requires the Department to develop ~~[a]~~ **: (1) a** list of preferred prescription drugs to be used for the Medicaid program ~~[.]~~ **; and (2) a list of preferred prescription drugs on the list of preferred prescription drugs to be used for the Medicaid program**

that are not subject to certain restrictions. (NRS 422.4025) **Section 31.4** of this bill requires the Children's Health Insurance Program to use the list of preferred prescription drugs. **Sections 28.5, 29.3, 31.4 and 33** of this bill authorize other public and nonprofit insurance plans to use the list of preferred prescription drugs as the formulary for such plans. **Section 31.4** also requires the Department to negotiate and enter into agreements to purchase prescription drugs included on the list of preferred prescription drugs on behalf of those health benefit plans or enter into a contract with ~~[an insurer or]~~ **a** pharmacy benefit manager **or health maintenance organization, as appropriate,** to negotiate and enter into such agreements. **Section 31.4 of this bill removes certain categories of prescription drugs from the list of preferred prescription drugs to be used for the Medicaid program that are not subject to certain restrictions.**

Existing law requires the Director of the Department to create a Pharmacy and Therapeutics Committee within the Department, consisting of members appointed by the Governor based on recommendations of the Director. (NRS 422.4035) Existing law requires the Committee to identify: (1) prescription drugs for inclusion in the list of preferred prescription drugs for the Medicaid program; and (2) prescription drugs on that list which should be excluded from any restrictions imposed by the Medicaid program. (NRS 422.405) **Sections 31.55-31.8** of this bill replace the Committee with the Silver State Scripts Board. **Section 31.55** requires the Director to appoint the members of the Board, who must have the same qualifications as the members of the Committee. **Section ~~[8]~~ 31.8** of this bill requires the Board to: (1) identify prescription drugs for inclusion in the formulary developed for use by publicly funded and nonprofit health plans; and (2) assume the other duties of the Committee.

Existing law requires the Committee to make its decisions based on evidence of clinical efficacy and safety without consideration of cost. (NRS 422.405) **Section 31.8** of this bill authorizes the Board to consider cost if there is no significant difference in the clinical efficacy, safety and patient outcomes of two or more drugs. **Sections 28 and 31.8** of this bill authorize the Board to close a portion of a meeting to the public in order to consider the cost of prescription drugs. **Sections 25, 29.2, 31-31.1, 31.3, 31.35, 31.45 and 31.9** of this bill make conforming changes.

Under existing law, a pharmacy benefit manager has a fiduciary duty to a third party with which the pharmacy benefit manager has entered into a contract to manage the pharmacy benefits plan of the third party. (NRS 683A.178) Section 32.5 of this bill removes this fiduciary duty and instead imposes on a pharmacy benefit manager an obligation of good faith and fair dealing toward a third party or pharmacy when performing contractual duties. Section 32.5 also provides that any contractual provision that limits or waives that obligation is void and unenforceable.

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

Section 1. ~~[Chapter 439B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 23, inclusive, of this act.]~~ **(Deleted by amendment.)**

Sec. 2. ~~*[As used in sections 2 to 23, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 11.5, inclusive, of this act have the meanings ascribed to them in those sections.]*~~ **(Deleted by amendment.)**

Sec. 3. ~~*[“Board” means the Prescription Drug Affordability Board established by section 12 of this act.]*~~ **(Deleted by amendment.)**

Sec. 4. ~~*[“Brand name prescription drug” means a prescription drug that is produced or distributed in accordance with an original new drug application approved pursuant to 21 U.S.C. § 355(c). The term does not include an authorized generic drug, as defined in 42 C.F.R. § 447.502.]*~~ **(Deleted by amendment.)**

Sec. 5. ~~[*"Council" means the Prescription Drug Affordability Stakeholder Council established by section 15 of this act.*]~~ (Deleted by amendment.)

Sec. 6. ~~[*"Generic prescription drug" means:*~~

~~*1. A prescription drug that is marketed or distributed in accordance with an abbreviated new drug application that has been approved pursuant to 21 U.S.C. § 355(j);*~~

~~*2. An authorized generic drug, as defined in 42 C.F.R. § 447.502; and*~~

~~*3. A prescription drug that entered the market before January 1, 1962, and was not originally marketed under a new drug application.*]~~ (Deleted by amendment.)

Sec. 7. ~~[*"Health carrier" means an entity subject to the insurance laws and regulations of this State, or subject to the jurisdiction of the Commissioner of Insurance, that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services, including, without limitation, a sickness and accident health insurance company, a health maintenance organization, a nonprofit hospital and health service corporation or any other entity providing a plan of health insurance, health benefits or health care services.*]~~ (Deleted by amendment.)

Sec. 8. ~~[*"Manufacturer" has the meaning ascribed to it in NRS 639.009.*]~~ (Deleted by amendment.)

Sec. 9. ~~[*"Pharmacy benefit manager" has the meaning ascribed to it in NRS 683A.174.*]~~ (Deleted by amendment.)

Sec. 10. ~~[*"Upper payment limit" means the maximum amount that the State or an agency or political subdivision thereof may pay for a dose of a prescription drug, as prescribed by the Board pursuant to section 21 of this act.*]~~ (Deleted by amendment.)

Sec. 11. ~~[*"Wholesale acquisition cost" has the meaning ascribed to it in NRS 439B.620.*]~~ (Deleted by amendment.)

Sec. 11.5. ~~[*"Wholesaler" has the meaning ascribed to it in NRS 639.016.*]~~ (Deleted by amendment.)

Sec. 12. ~~[*1. The Prescription Drug Affordability Board is hereby established. The Board consists of the following regular members:*~~

~~*(a) One member appointed by the Governor;*~~

~~*(b) One member appointed by the Majority Leader of the Senate;*~~

~~*(c) One member appointed by the Speaker of the Assembly;*~~

~~*(d) One member appointed by the Attorney General; and*~~

~~*(e) One member jointly appointed by the Majority Leader of the Senate and the Speaker of the Assembly. The member appointed pursuant to this paragraph shall serve as the Chair of the Board.*~~

~~*2. In addition to the regular members appointed to the Board pursuant to subsection 1:*~~

~~*(a) The Governor shall appoint one alternate member;*~~

~~*(b) The Majority Leader of the Senate shall appoint one alternate member; and*~~

~~*(c) The Speaker of the Assembly shall appoint one alternate member.*~~

~~*3. A regular member of the Board appointed pursuant to subsection 1 or an alternate member of the Board appointed pursuant to subsection 2:*~~

~~*(a) Must have expertise in the economics of health care or the practice of clinical medicine; and*~~

~~*(b) Must not be an employee, officer, member of the executive board or consultant of a manufacturer, a pharmacy benefit manager, a health carrier or a wholesaler or a trade association for any such entity.*~~

~~*4. Before being appointed as a regular or alternate member of the Board, a person shall disclose to the authority considering the appointment any potential conflict of interest, including, without limitation, a financial interest or personal association, that may create bias or the appearance of bias in matters related to the duties of the Board. An appointing authority shall disclose to the Chair of the Board any conflict of interest reported to him or her not later than 5 days after the identification of the conflict of interest. The Board shall post on an Internet website maintained by the Board notification of the conflict of interest, including, without limitation, the type and significance of the conflict of interest and the name of the potential member involved.*~~

~~*5. In appointing the regular and alternate members of the Board described in subsections 1 and 2, the appointing authorities shall coordinate the appointments when practicable so that the regular and alternate members of the Board reflect the ethnic and geographic diversity of this State.*~~

~~*6. After the initial terms, each regular and alternate member of the Board serves for a term of 4 years. Each member of the Board continues in office until his or her successor is appointed. Members may be reappointed for additional terms of 4 years in the same manner as the original appointments. Any vacancy occurring in the membership of the Board must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.*~~

~~*7. Each regular or alternate member of the Board who is not an officer or employee of this State or a political subdivision of this State is entitled to receive a salary of $80 per day while engaged in the business of the Board.*~~

~~*8. While engaged in the business of the Board, each regular and alternate member of the Board is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.*~~

~~*9. A majority of the members of the Board constitutes a quorum for the transaction of business, and a majority of a quorum present at any meeting is sufficient for any official action taken by the Board.*~~

~~*10. A regular or alternate member of the Board who is an officer or employee of this State or a political subdivision of this State must be relieved from his or her duties without loss of regular compensation to prepare for and attend meetings of the Board and perform any work necessary to carry out the duties of the Board in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Board to:*~~

~~*(a) Make up the time he or she is absent from work to carry out his or her duties as a member of the Board; or*~~

~~*(b) Take annual leave or compensatory time for the absence.]*~~ **(Deleted by amendment.)**

Sec. 13. ~~*[1. Except as otherwise provided in this subsection, the Board shall meet at the call of the Chair of the Board or a majority of its regular members and not less than once every 6 weeks. The Board may cancel or postpone a meeting for any reason.*~~

~~*2. The Board may close any portion of a meeting during which it considers trade secrets or other confidential or proprietary information concerning a prescription drug. Any portion of a meeting that is closed pursuant to this subsection is not subject to the provisions of chapter 241 of NRS. The Board shall not vote on any matter during the closed portion of a meeting.*~~

~~*3. If any regular member of the Board informs the Chair that the member will be unable to attend a scheduled meeting of the Board, the Chair must select an alternate member to replace the regular member at that meeting only, with all the duties, rights and privileges of the replaced member.*~~

~~4. A regular or alternate member of the Board shall recuse himself or herself from a decision of the Board if the member or a member of his or her immediate family may receive a direct financial benefit, including, without limitation, honoraria, fees, stock or an increase in the value of an investment, deriving from the decision or any action taken pursuant to the decision.~~

~~5. A regular or alternate member of the Board shall not accept from a manufacturer, pharmacy benefit manager, health carrier, wholesaler or other person or entity who manufactures or distributes products or services related to prescription drugs or a person who owns or invests in such a person or entity financial benefits that, in aggregate, exceed $5,000 in any calendar year.~~

~~6. A regular or alternate member, independent contractor or employee of the Board shall not accept any gift or donation of services or property that creates a potential conflict of interest or has the appearance of creating bias concerning the work of the Board.~~

~~7. A regular or alternate member of the Board shall disclose to the Chair of the Board any conflict of interest that affects the member before the meeting of the Board immediately following the identification of the conflict of interest or not later than 5 days after the identification of the conflict of interest, whichever is earlier. The Chair may recuse a member who discloses a conflict of interest from any decision of the Board to which the conflict of interest is relevant. If a member who discloses a conflict of interest is not recused, the Board must post on an Internet website maintained by the Board notification of the conflict of interest, including, without limitation, a description of the type and significance of the conflict of interest and the name of the member involved.]~~ **(Deleted by amendment.)**

Sec. 14. ~~[1. Upon approval by a majority of the members of the Board, the Board shall appoint an Executive Director, General Counsel and such other employees as the Board deems necessary.~~

~~2. The Executive Director and General Counsel are in the unclassified service of the State and serve at the pleasure of the Board. Any other employees of the Board are in the classified service of the State.~~

~~3. The Board shall establish the qualifications, powers and duties of the Executive Director and General Counsel.]~~ **(Deleted by amendment.)**

Sec. 15. ~~[1. The Prescription Drug Affordability Stakeholder Council is hereby established.~~

~~2. The Speaker of the Assembly shall appoint to the Council:~~

~~(a) One member who is a representative of a statewide organization that advocates for consumers of health care;~~

~~(b) One member who is a representative of a statewide organization that advocates for senior citizens;~~

~~(c) One member who is a representative of a statewide organization that advocates for members of minority groups;~~

~~(d) One member who is a representative of an employee organization;~~

~~(e) One member who performs scientific research concerning prescription drugs;~~

~~(f) One member who is a representative of the general public;~~

~~(g) One member who is a representative of manufacturers of generic prescription drugs; and~~

~~(h) One member who is a representative of nonprofit health carriers.~~

~~3. The Majority Leader of the Senate shall appoint to the Council:~~

~~(a) One member who is a representative of physicians;~~

~~(b) One member who is a representative of nurses;~~

~~(c) One member who is a representative of dentists;~~

~~(d) One member who is a representative of hospitals;~~
~~(e) One member who is a representative of health carriers;~~
~~(f) One member who is a representative of the Budget Division of the Office of Finance;~~
~~(g) One member who is a representative of manufacturers of brand name prescription drugs;~~
~~(h) One member who performs clinical research concerning prescription drugs; and~~
~~(i) One member who is a representative of the general public.~~
~~4. The Governor shall appoint to the Council:~~
~~(a) One member who is a representative of manufacturers of brand name prescription drugs;~~
~~(b) One member who is a representative of manufacturers of generic prescription drugs;~~
~~(c) One member who is a representative of biotechnology companies;~~
~~(d) One member who is a representative of employers;~~
~~(e) One member who is a representative of pharmacy benefit managers;~~
~~(f) One member who is a representative of for-profit health carriers;~~
~~(g) One member who is a representative of pharmacists;~~
~~(h) One pharmacologist; and~~
~~(i) One member who is a representative of the general public.~~
~~5. In appointing the members of the Council described in subsections 2, 3 and 4, the appointing authorities shall coordinate the appointments when practicable so that the members of the Council reflect the ethnic and geographic diversity of this State.~~
~~6. Collectively, the members of the Council must have knowledge in the following subject areas:~~
~~(a) The business models of manufacturers.~~
~~(b) The supply chain for the production and distribution of prescription drugs.~~
~~(c) The practice of medicine or clinical training.~~
~~(d) Perspectives of consumers of prescription drugs.~~
~~(e) Trends in and drivers of the cost of health care.~~
~~(f) Clinical research or other research concerning the provision of health care.~~
~~(g) The Silver State Health Insurance Exchange established by NRS 695I.200.~~
~~7. After the initial terms, each member of the Council serves for a term of 3 years. Each member of the Council continues in office until his or her successor is appointed. Members may be reappointed for additional terms of 3 years in the same manner as the original appointments. Any vacancy occurring in the membership of the Council must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.~~
~~8. The members of the Council serve without compensation but are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.~~
~~9. At its first meeting and annually thereafter, the Council shall elect a Chair from among its members. A majority of the members of the Council constitutes a quorum for the transaction of business, and a majority of a quorum present at any meeting is sufficient for any official action taken by the Council.~~
~~10. A member of the Council who is an officer or employee of this State or a political subdivision of this State must be relieved from his or her duties without loss of regular compensation to prepare for and attend meetings of the Council~~

~~and perform any work necessary to carry out the duties of the Council in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Council to:~~

~~(a) Make up the time he or she is absent from work to carry out his or her duties as a member of the Council; or~~

~~(b) Take annual leave or compensatory time for the absence.]~~ **(Deleted by amendment.)**

Sec. 16. ~~[1. The Prescription Drug Affordability Account is hereby created in the State General Fund. The Account must be administered by the Board.~~

~~2. The interest and income earned on:~~

~~(a) The money in the Account, after deducting any applicable charges; and~~

~~(b) Unexpended appropriations made to the Account from the State General Fund,~~

~~" must be credited to the Account.~~

~~3. Any money remaining in the Account at the end of a fiscal year including, without limitation, any unexpended appropriations made to the Account from the State General Fund, does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.~~

~~4. The Board may accept gifts and grants of money from any source for deposit in the Account.~~

~~5. The money in the Account may only be used to pay the expenses incurred by the Board and the Council to perform the duties prescribed in sections 2 to 23, inclusive, of this act.]~~ **(Deleted by amendment.)**

Sec. 17. (Deleted by amendment.)

Sec. 18. ~~[1. Using information available to the Board, including, without limitation, information obtained through a memorandum of understanding entered into pursuant to section 20 of this act, the Board shall identify:~~

~~(a) Each brand name prescription drug for which:~~

~~(1) If the prescription drug is a new drug, the wholesale acquisition cost is $30,000 or more per year or for a course of treatment; or~~

~~(2) The wholesale acquisition cost has increased by $3,000 or more in any 12 month period or, if a course of treatment using the prescription drug is less than 12 months, during the time period of a course of treatment.~~

~~(b) Each new biosimilar prescription drug that has a wholesale acquisition cost that is not at least 15 percent lower than the brand name prescription drug to which the new prescription drug is biosimilar;~~

~~(c) Each generic prescription drug for which the wholesale acquisition cost:~~

~~(1) Is $100 or more for:~~

~~(I) A supply of the drug for 30 days or less, as calculated using the recommended dosage approved by the United States Food and Drug Administration; or~~

~~(II) If no such recommended dosage has been approved, for one unit of the drug; or~~

~~(2) Increased by 200 percent or more during the immediately preceding calendar year; and~~

~~(d) Any other prescription drug for which the Board determines, in consultation with the Council, that the price of the drug may be creating significant challenges for insurers and patients in this State.~~

~~2. For each prescription drug identified pursuant to subsection 1, the Board shall, in consultation with the Council, determine whether to conduct a review of price of the drug pursuant to section 19 of this act. When determining whether to~~

~~*conduct such a review, the Board shall consider, without limitation, the average copayment or coinsurance required for the prescription drug in this State.*~~

~~*3. The dollar amounts set forth in this section must be adjusted by the Board every year by an amount equal to the percentage increase in the Consumer Price Index, Medical, for the immediately preceding year.*~~

~~*4. As used in this section, "biosimilar" means a prescription drug that is produced or distributed in accordance with a biologics license application approved pursuant to 42 U.S.C. § 262(k)(3).]*~~ **(Deleted by amendment.)**

Sec. 19. ~~*[1. The Board may review the price of any prescription drug identified as meeting the criteria prescribed by section 18 of this act to determine whether the price of the prescription drug is creating significant challenges for insurers and patients in this State.*~~

~~*2. In making a determination pursuant to subsection 1, the Board shall consider, to the extent that such information is available:*~~

~~*(a) The wholesale acquisition cost of the prescription drug;*~~

~~*(b) The average discount or rebate that the manufacturer of the prescription drug provides to health carriers in connection with the sale of the prescription drug in this State and the percentage of the wholesale acquisition cost of the prescription drug that is covered by that average discount or rebate;*~~

~~*(c) The average discount or rebate that the manufacturer of the prescription drug provides to pharmacy benefit managers in connection with the sale of the prescription drug in this State and the percentage of the wholesale acquisition cost of the prescription drug that is covered by that average discount or rebate;*~~

~~*(d) The prices at which comparable alternative prescription drugs are sold in this State;*~~

~~*(e) The average discount or rebate that the manufacturers of comparable alternative prescription drugs provide to health carriers and pharmacy benefit managers in connection with the sale of those alternative prescription drugs in this State;*~~

~~*(f) The cost to health carriers to provide covered persons with access to the prescription drug in this State;*~~

~~*(g) The impact of the price of the prescription drug on access to the prescription drug in this State;*~~

~~*(h) The current or expected monetary value in this State of patient access programs that are specific to the prescription drug and supported by the manufacturer of the prescription drug;*~~

~~*(i) The impact of the price of the prescription drug on the cost of public health services, medical services and social services in this State relative to the impact of the prices of comparable alternative prescription drugs on such services;*~~

~~*(j) The average copayment or coinsurance paid by patients for the prescription drug in this State; and*~~

~~*(k) Any other factors prescribed by regulation of the Board.*~~

~~*3. If the Board is unable to make a determination pursuant to subsection 1 after considering the factors prescribed by subsection 2, the Board may consider:*~~

~~*(a) The research and development costs of the manufacturer, as indicated in publicly available tax documents or information filed with the Securities and Exchange Commission for the most recent tax year, in proportion to the sales of the manufacturer in this State;*~~

~~*(b) The percentage of the amount spent by the manufacturer for marketing prescription drugs directly to consumers that is:*~~

~~*(1) Eligible for favorable treatment with respect to federal taxes; and*~~

~~*(2) Attributable to the prescription drug;*~~

~~(c) Gross and net revenues of the manufacturer for the most recent tax year;~~

~~(d) Any additional relevant factor recommended by the manufacturer; and~~

~~(e) Any other factor prescribed by regulation of the Board.]~~ **(Deleted by amendment.)**

Sec. 20. ~~[1. In conducting a review pursuant to this section 19 of this act, the Board may use any information relating to the selection of the price of the prescription drug by the manufacturer, including, without limitation, publicly available information, information disclosed to the Department pursuant to NRS 439B.600 to 439B.695, inclusive, information obtained through a memorandum of understanding entered into pursuant to subsection 2 and information requested and obtained from a manufacturer, wholesaler, pharmacy benefit manager or health carrier.~~

~~2. The Board may enter into a memorandum of understanding with any agency of another State for the sharing of information concerning the prices of prescription drugs, including, without limitation, information reported to the Department pursuant to NRS 439B.600 to 439B.695, inclusive.~~

~~3. Except as otherwise provided in this subsection, any proprietary information disclosed to or otherwise obtained by the Board pursuant to sections 2 to 23, inclusive, of this act, except for information previously made public, is confidential and is not a public record. Such information may be disclosed to an agency of another state pursuant to a memorandum of understanding entered into under the provisions of subsection 2 if the agency has requirements concerning the confidentiality of such information similar to those prescribed by this subsection.~~

~~4. Failure of a manufacturer, wholesaler, pharmacy benefit manager or health carrier to provide information requested by the Board pursuant to subsection 1 does not affect the authority of the Board to take any action authorized by sections 2 to 23, inclusive, of this act.]~~ **(Deleted by amendment.)**

Sec. 21. ~~[1. If the Board determines that it is in the best interest of this State to impose upper payment limits for purchases of prescription drugs by this State or any political subdivision thereof, the Board, in consultation with the Council, may adopt regulations prescribing:~~

~~(a) A process for imposing such upper payment limits; and~~

~~(b) The criteria, in addition to those prescribed by subsection 3, for imposing upper payment limits.~~

~~2. If the Board adopts regulations pursuant to subsection 1, the Board may, after conducting a review pursuant to section 19 of this act and determining that the price of a prescription drug is creating significant challenges for insurers and patients in this State, set an upper payment limit for purchases of the prescription drug by this State or any agency or political subdivision thereof, including, without limitation:~~

~~(a) The state prison, any county jail and any other detention facility for adults or children operated by this State or a political subdivision thereof;~~

~~(b) Any medical facility, as defined in NRS 449.0151, operated by this State or a political subdivision thereof;~~

~~(c) Any health clinic or other facility that provides health care at a college or university within the Nevada System of Higher Education; and~~

~~(d) The Medicaid program, the Public Employees' Benefits Program, coverage of prescription drugs provided by a local governmental agency pursuant to NRS 287.010 and any other coverage of prescription drugs provided by this State or a political subdivision thereof.~~

~~*3. When establishing an upper payment limit for a prescription drug, the Board shall consider, to the extent that such information is available and relevant:*~~

~~*(a) The cost of administering the prescription drug;*~~

~~*(b) The cost of delivering the prescription drug to consumers;*~~

~~*(c) Any other relevant administrative costs related to the prescription drug;*~~

~~*(d) The information described in section 19 of this act; and*~~

~~*(e) Any other criteria prescribed by regulation of the Board.*~~

~~*4. The Board shall not impose an upper payment limit pursuant to this section for any prescription drug for which the United States Food and Drug Administration has determined that a shortage exists.*~~

~~*5. The Board:*~~

~~*(a) Shall monitor the availability of any drug for which an upper payment limit has been prescribed pursuant to this section; and*~~

~~*(b) May revise, suspend or rescind an upper payment limit imposed pursuant to this section if it determines that there is a shortage of the prescription drug in this State or conditions otherwise warrant the revision, suspension or rescinding of the upper payment limit, as applicable.*~~

~~*6. The Board shall collaborate with the Council, manufacturers, pharmacy benefit managers, health carriers, wholesalers, consumers of prescription drugs and other interested persons to:*~~

~~*(a) Establish and refine a methodology for prescribing upper payment limits pursuant to this section;*~~

~~*(b) Improve the quality and quantity of information received by the Board pursuant to section 20 of this act; and*~~

~~*(c) Study purchasing strategies to lower the price of any drug for which an upper payment limit is imposed pursuant to this section, including, without limitation, such a drug for which the upper payment limit is revised, suspended or rescinded pursuant to subsection 5.]*~~ **(Deleted by amendment.)**

Sec. 22. ~~**[***1. Any person aggrieved by a decision of the Board may submit a written appeal to the Board not later than 30 days after the date of the decision. The Board shall rule on the appeal not later than 60 days after receiving the appeal.*~~

~~*2. A decision of the Board concerning an appeal pursuant to subsection 1 is a final decision for purposes of judicial review.]*~~ **(Deleted by amendment.)**

Sec. 23. ~~**[***1. The Board may:*~~

~~*(a) Adopt any regulations necessary to carry out the provisions of sections 2 to 23, inclusive, of this act.*~~

~~*(b) Enter into any contract necessary to carry out the provisions of sections 2 to 23, inclusive, of this act.*~~

~~*2. On or before December 31 of each year, the Board shall submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report that includes, without limitation:*~~

~~*(a) Information concerning trends in the price of prescription drugs;*~~

~~*(b) The number of prescription drugs that were reviewed pursuant to section 19 of this act and the outcomes of such reviews, any appeals submitted pursuant to section 22 of this act and any judicial review of such appeals; and*~~

~~*(c) Any recommendations of the Board to increase the affordability of prescription drugs in this State.]*~~ **(Deleted by amendment.)**

Sec. 24. ~~**[**NRS 439B.670 is hereby amended to read as follows:~~

~~439B.670 1. Except as otherwise provided in subsection 2 and subsection 3 of NRS 439B.660, the Department shall:~~

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

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

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

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

~~(4) The wholesale acquisition cost of each prescription drug reported pursuant to NRS 439B.635; and~~

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

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

~~(c) Ensure that the usual and customary price that each pharmacy charges for each prescription drug that is on the list prepared pursuant to NRS 439B.625 and that is stocked by the pharmacy:~~

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

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

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

~~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.~~

~~*4. The Department shall provide to the Prescription Drug Affordability Board established pursuant to section 12 of this act any information submitted to the Department pursuant to NRS 439B.600 to 439B.695, inclusive, upon the request of the Board.*~~

~~5. As used in this section, "usual and customary price" means the usual and customary charges that a pharmacy charges to the general public for a drug, as described in 42 C.F.R. § 447.512.~~] **(Deleted by amendment.)**

Sec. 25. NRS 232.320 is hereby amended to read as follows:

232.320 1. 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 and Disability Services Division;

(2) The Administrator of the Division of Welfare and Supportive Services;

(3) The Administrator of the Division of Child and Family Services;

(4) The Administrator of the Division of Health Care Financing and Policy; and

(5) The Administrator of the Division of Public and Behavioral Health.

(b) Shall administer, through the divisions of the Department, the provisions of chapters 63, 424, 425, 427A, 432A to 442, inclusive, 446 to 450, inclusive, 458A and 656A of NRS, NRS 127.220 to 127.310, inclusive, 422.001 to 422.410, inclusive, ***and sections 31.05 to 31.2, inclusive, of this act,*** 422.580, 432.010 to 432.133, inclusive, 432B.621 to 432B.626, inclusive, 444.002 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 Division of Public and Behavioral Health or the professional line activities of the other divisions.

(c) Shall administer any state program for persons with developmental disabilities established pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. §§ 15001 et seq.

(d) 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:

(1) Identify and assess the plans and programs of the Department for the provision of human services, and any duplication of those services by federal, state and local agencies;

(2) Set forth priorities for the provision of those services;

(3) Provide for communication and the coordination of those services among nonprofit organizations, agencies of local government, the State and the Federal Government;

(4) Identify the sources of funding for services provided by the Department and the allocation of that funding;

(5) Set forth sufficient information to assist the Department in providing those services and in the planning and budgeting for the future provision of those services; and

(6) Contain any other information necessary for the Department to communicate effectively with the Federal Government concerning demographic trends, formulas for the distribution of federal money and any need for the modification of programs administered by the Department.

(e) May, by regulation, require nonprofit organizations and state and local governmental agencies to provide information regarding the programs of those organizations and agencies, excluding detailed information relating to their budgets and payrolls, which the Director deems necessary for the performance of the duties imposed upon him or her pursuant to this section.

(f) Has such other powers and duties as are provided by law.

2. Notwithstanding any other provision of law, the Director, or the Director's designee, is responsible for appointing and removing subordinate officers and employees of the Department, other than the State Public Defender of the Office of State Public Defender who is appointed pursuant to NRS 180.010.

Sec. 26. ~~[NRS 233B.039 is hereby amended to read as follows:~~

~~233B.039 1. The following agencies are entirely exempted from the requirements of this chapter:~~

~~(a) The Governor.~~

~~(b) Except as otherwise provided in NRS 209.221, the Department of Corrections.~~

~~(c) The Nevada System of Higher Education.~~

~~(d) The Office of the Military.~~

~~(e) The Nevada Gaming Control Board.~~

~~(f) Except as otherwise provided in NRS 368A.140 and 463.765, the Nevada Gaming Commission.~~

~~(g) Except as otherwise provided in NRS 425.620, the Division of Welfare and Supportive Services of the Department of Health and Human Services.~~

~~(h) Except as otherwise provided in NRS 422.390, the Division of Health Care Financing and Policy of the Department of Health and Human Services.~~

~~(i) The State Board of Examiners acting pursuant to chapter 217 of NRS.~~

~~(j) Except as otherwise provided in NRS 533.365, the Office of the State Engineer.~~

~~(k) The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of NRS 618.375.~~

~~(l) The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260.~~

~~(m) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to NRS 445C.310.~~

~~(n) The Silver State Health Insurance Exchange.~~

~~2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education, the Board of the Public Employees' Benefits Program and the Commission on Professional Standards in Education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.~~

~~3. The special provisions of:~~

~~(a) Chapter 612 of NRS for the distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation;~~

~~(b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;~~

~~(c) Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and~~

~~(d) NRS 90.800 for the use of summary orders in contested cases,~~

~~↔ prevail over the general provisions of this chapter.~~

~~4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.~~

~~5. The provisions of this chapter do not apply to:~~

~~(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health, or any other agency of this State in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control;~~

~~(b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to NRS 453.2184;~~

~~(c) A regulation adopted by the State Board of Education pursuant to NRS 388.255 or 394.1694;~~

~~(d) The judicial review of decisions of the Public Utilities Commission of Nevada; or~~

~~(e) The adoption, amendment or repeal of policies by the Rehabilitation Division of the Department of Employment, Training and Rehabilitation pursuant to NRS 426.561 or 615.178.~~

~~*(f) An upper payment limit prescribed by the Prescription Drug Affordability Board pursuant to section 21 of this act.*~~

~~6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.~~] **(Deleted by amendment.)**

Sec. 27. ~~[NRS 239.010 is hereby amended to read as follows:~~

~~239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902, 433.534, 433A.360, 437.145, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 445A.665, 445B.570, 449.209, 449.245, 449A.112, 450.140, 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047,**

~~629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641.325, 641A.191, 641A.289, 641B.170, 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, *and section 20 of this act,* sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.~~

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

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

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

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

~~(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.~~**]** **(Deleted by amendment.)**

Sec. 28. NRS 241.016 is hereby amended to read as follows:

241.016 1. The meetings of a public body that are quasi-judicial in nature are subject to the provisions of this chapter.

2. The following are exempt from the requirements of this chapter:

(a) The Legislature of the State of Nevada.

(b) Judicial proceedings, including, without limitation, proceedings before the Commission on Judicial Selection and, except as otherwise provided in NRS 1.4687, the Commission on Judicial Discipline.

(c) Meetings of the State Board of Parole Commissioners when acting to grant, deny, continue or revoke the parole of a prisoner or to establish or modify the terms of the parole of a prisoner.

3. Any provision of law, including, without limitation, NRS 91.270, 219A.210, 228.495, 239C.140, 281A.350, 281A.690, 281A.735, 281A.760, 284.3629, 286.150, 287.0415, 287.04345, 287.338, 288.220, 289.387, 295.121, 360.247, 388.261, 388A.495, 388C.150, 388G.710, 388G.730, 392.147, 392.467, 394.1699, 396.3295, ***422.405,*** 433.534, 435.610, 463.110, 622.320, 622.340, 630.311, 630.336, 631.3635, 639.050, 642.518, 642.557, 686B.170, 696B.550, 703.196 and 706.1725 , ~~***[and section 13 of this act,]***~~ which:

(a) Provides that any meeting, hearing or other proceeding is not subject to the provisions of this chapter; or

(b) Otherwise authorizes or requires a closed meeting, hearing or proceeding,

➥ prevails over the general provisions of this chapter.

4. The exceptions provided to this chapter, and electronic communication, must not be used to circumvent the spirit or letter of this chapter to deliberate or act, outside of an open and public meeting, upon a matter over which the public body has supervision, control, jurisdiction or advisory powers.

Sec. 28.5. Chapter 287 of NRS is hereby amended by adding thereto a new section to read as follows:

A governing body of a county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides coverage of prescription drugs pursuant to NRS 287.010 or any issuer of a policy of health insurance purchased pursuant to NRS 287.010 may use the list of preferred prescription drugs developed by the Department of Health and Human Services pursuant to subsection 1 of NRS 422.4025 as its formulary and obtain prescription drugs through the purchasing agreements negotiated by the Department pursuant to that section by notifying the Department in the form prescribed by the Department.

Sec. 29. (Deleted by amendment.)

Sec. 29.2. NRS 287.040 is hereby amended to read as follows:

287.040 The provisions of NRS 287.010 to 287.040, inclusive, ***and section 28.5 of this act*** do not make it compulsory upon any governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada, except as otherwise provided in NRS 287.021 or subsection 4 of NRS 287.023 or in an agreement entered into pursuant to subsection 3 of NRS 287.015, to pay any premiums, contributions or other costs for group insurance, a plan of benefits or medical or hospital services established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025, for coverage under the Public Employees' Benefits Program, or to make any contributions to a trust fund established pursuant to NRS 287.017, or upon any officer or employee of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State to accept any such coverage or to assign his or her wages or salary in payment of premiums or contributions therefor.

Sec. 29.3. NRS 287.0433 is hereby amended to read as follows:

287.0433 ***1.*** The Board may establish a plan of life, accident or health insurance and provide for the payment of contributions into the Program Fund, a schedule of benefits and the disbursement of benefits from the Program Fund. The Board may reinsure any risk or any part of such a risk.

2. If the Board provides coverage of prescription drugs pursuant to this section, the Board or any entity with which the Board enters into a contract to

provide such coverage may use the list of preferred prescription drugs developed by the Department of Health and Human Services pursuant to subsection 1 of NRS 422.4025 as its formulary and obtain prescription drugs through the purchasing agreements negotiated by the Department pursuant to that section by notifying the Department in the form prescribed by the Department.

Sec. 29.6. ~~[NRS 287.0433 is hereby amended to read as follows:~~

~~287.0433 1. The Board may establish a plan of life, accident or health insurance and provide for the payment of contributions into the Program Fund, a schedule of benefits and the disbursement of benefits from the Program Fund. The Board may reinsure any risk or any part of such a risk.~~

~~2. If the Board provides coverage of prescription drugs pursuant to this section, the Board or any entity with which the Board enters into a contract to provide such coverage [may] :~~

~~*(a) May* use the list of preferred prescription drugs developed by the Department of Health and Human Services pursuant to subsection 1 of NRS 422.4025 as its formulary and obtain prescription drugs through the purchasing agreements negotiated by the Department pursuant to that section by notifying the Department in the form prescribed by the Department.~~

~~*(b) Shall not pay an amount for the prescription drug that exceeds any upper payment limit prescribed for that drug pursuant to section 21 of this act. For the purposes of this paragraph, the amount paid for a prescription drug means the price paid for the drug, less any rebates received by the Board or other entity.]~~*

(Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. Chapter 422 of NRS is hereby amended by adding thereto the provisions set forth as sections 31.05 to 31.2, inclusive, of this act.

Sec. 31.05. *"Health benefit plan" means a policy, contract, certificate or agreement offered to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services.*

Sec. 31.07. *"Health maintenance organization" has the meaning ascribed to it in NRS 695C.030.*

Sec. 31.1. *"Pharmacy benefit manager" has the meaning ascribed to it in NRS 683A.174.*

Sec. 31.15. *1. Except as otherwise provided in subsection 2, the Department shall directly manage, direct and coordinate all payments and rebates for prescription drugs and all other services and payments relating to the provision of prescription drugs under the State Plan for Medicaid and the Children's Health Insurance Program.*

2. The Department may enter into a contract with ~~[a private insurer or]~~ :

(a) A pharmacy benefit manager ~~[pursuant to paragraph (b) of subsection 1 of NRS 422.4025]~~ for the provision of any services described in subsection 1. ~~[Such a]~~

(b) A health maintenance organization pursuant to NRS 422.273 for the provision of any of the services described in subsection 1 for recipients of Medicaid or recipients of insurance through the Children's Health Insurance Program who receive coverage through a Medicaid managed care program.

3. A contract ~~[:]~~ entered into pursuant to subsection 2 must:

(a) ~~[Must include]~~ Include the provisions required by section 31.2 of this act; and

(b) ~~[Must require]~~ Require the ~~[insurer or]~~ pharmacy benefit manager or health maintenance organization, as applicable, to disclose to the Department any information relating to the services covered by the contract, including, without limitation, information concerning dispensing fees, measures for the

control of costs, rebates collected and paid and any fees and charges imposed by the ~~[insurer or]~~ pharmacy benefit manager or health maintenance organization pursuant to the contract. ~~[; and~~

~~(c) May]~~

4. In addition to meeting the requirements of subsection 3, a contract entered into pursuant to:

(a) Paragraph (a) of subsection 2 may require the ~~[insurer or]~~ pharmacy benefit manager to provide the entire amount of any rebates received for the purchase of prescription drugs , including, without limitation, rebates for the purchase of prescription drugs by an entity other than the Department, to the Department.

(b) Paragraph (b) of subsection 2 must require the health maintenance organization to provide to the Department the entire amount of any rebates received for the purchase of prescription drugs, including, without limitation, rebates for the purchase of prescription drugs by an entity other than the Department, less an administrative fee in an amount prescribed by the contract. The Department shall adopt policies prescribing the maximum amount of such an administrative fee.

Sec. 31.2. *1. Any ~~[agreement]~~ contract between the Department and a ~~[private insurer or]~~ pharmacy benefit manager ~~[to negotiate agreements for the purchase of prescription drugs pursuant to paragraph (b) of subsection 1 of NRS 422.4025]~~ or health maintenance organization entered into pursuant to section 31.15 of this act must require the ~~[insurer or]~~ pharmacy benefit manager ~~[,]~~ or health maintenance organization, as applicable, to:*

~~[1.]~~ (a) Submit to and cooperate with an annual audit by the Department to evaluate the ~~[insurer's or pharmacy benefit manager's]~~ compliance of the pharmacy benefit manager or health maintenance organization with the agreement and generally accepted accounting and business practices. The audit must analyze all claims processed by the ~~[insurer or]~~ pharmacy benefit manager or health maintenance organization pursuant to the agreement.

~~[2.]~~ (b) Obtain from an independent accountant, at the expense of the ~~[insurer or]~~ pharmacy benefit manager ~~[,]~~ or health maintenance organization, as applicable, an annual audit of internal controls to ensure the integrity of financial transactions and claims processing.

2. The Department shall post the results of any audit conducted pursuant to paragraph (a) of subsection 1 on an Internet website maintained by the Department.

Sec. 31.25. ~~[NRS 422.273 is hereby amended to read as follows:~~

~~422.273 1. For any Medicaid managed care program established in the State of Nevada, the Department shall contract only with a health maintenance organization that has:~~

~~(a) Negotiated in good faith with a federally qualified health center to provide health care services for the health maintenance organization;~~

~~(b) Negotiated in good faith with the University Medical Center of Southern Nevada to provide inpatient and ambulatory services to recipients of Medicaid; and~~

~~(c) Negotiated in good faith with the University of Nevada School of Medicine to provide health care services to recipients of Medicaid.~~

~~2. Nothing in this section shall be construed as exempting a federally qualified health center, the University Medical Center of Southern Nevada or the University of Nevada School of Medicine from the requirements for contracting with the health maintenance organization.~~

~~2. During the development and implementation of any Medicaid managed care program, the Department shall cooperate with the University of Nevada School~~

~~of Medicine by assisting in the provision of an adequate and diverse group of patients upon which the school may base its educational programs.~~

~~3. The University of Nevada School of Medicine may establish a nonprofit organization to assist in any research necessary for the development of a Medicaid managed care program, receive and accept gifts, grants and donations to support such a program and assist in establishing educational services about the program for recipients of Medicaid.~~

~~4. For the purpose of contracting with a Medicaid managed care program pursuant to this section, a health maintenance organization is exempt from the provisions of NRS 695C.123.~~

~~5. *Except as authorized by section 31.15 of this act, the Department shall not contract with a managed care organization for any services relating to coverage of prescription drugs for recipients of Medicaid. Such coverage must be managed and coordinated by the Department in accordance with NRS 422.401 to 422.406, inclusive, and sections 31.05 to 31.2, inclusive, of this act.*~~

~~6. The provisions of this section apply to any managed care organization, including a health maintenance organization, that provides health care services to recipients of Medicaid under the State Plan for Medicaid or the Children's Health Insurance Program pursuant to a contract with the Division. Such a managed care organization or health maintenance organization is not required to establish a system for conducting external reviews of adverse determinations in accordance with chapter 695B, 695C or 695G of NRS. This subsection does not exempt such a managed care organization or health maintenance organization for services provided pursuant to any other contract.~~

~~[6.] 7. As used in this section, unless the context otherwise requires:~~

~~(a) "Federally qualified health center" has the meaning ascribed to it in 42 U.S.C. § 1396d(l)(2)(B).~~

~~(b) "Health maintenance organization" has the meaning ascribed to it in NRS 695C.030.~~

~~(c) "Managed care organization" has the meaning ascribed to it in NRS 695C.050.]~~ **(Deleted by amendment.)**

Sec. 31.3. NRS 422.401 is hereby amended to read as follows:

422.401 As used in NRS 422.401 to 422.406, inclusive, ***and sections 31.05 to 31.2, inclusive of this act,*** unless the context otherwise requires, the words and terms defined in NRS 422.4015 and 422.402 ***and sections 31.05 and 31.1 of this act*** have the meanings ascribed to them in those sections.

Sec. 31.35. NRS 422.4015 is hereby amended to read as follows:

422.4015 ~~["Committee"]~~ ***"Board"*** means the ~~[Pharmacy and Therapeutics Committee]~~ ***Silver State Scripts Board*** established pursuant to NRS 422.4035.

Sec. 31.4. NRS 422.4025 is hereby amended to read as follows:

422.4025 1. The Department shall ~~[, by]~~ ***:***

(a) By regulation, develop a list of preferred prescription drugs to be used for the Medicaid program ~~[.]~~ ***and the Children's Health Insurance Program, and each public or nonprofit health benefit plan that elects to use the list of preferred prescription drugs as its formulary pursuant to NRS 287.0433 or section 28.5 or 33 of this act; and***

(b) Negotiate and enter into agreements to purchase the drugs included on the list of preferred prescription drugs on behalf of the health benefit plans described in paragraph (a) or enter into a contract pursuant to section 31.15 of this act with a ~~[private insurer or]~~ pharmacy benefit manager or health maintenance organization, as appropriate, to negotiate such agreements. ~~[The Department may, by regulation, require any rebates received through an agreement entered into pursuant to this paragraph, including, without limitation,~~

~~*rebates for the purchase of drugs by an entity other than the Department, to be paid to the Department.]*~~

2. The Department shall, by regulation, establish a list of prescription drugs which must be excluded from any restrictions that are imposed ***by the Medicaid program*** on drugs that are on the list of preferred prescription drugs established pursuant to subsection 1. 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;~~

~~(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)]~~ ***(b)*** Antirejection medications for organ transplants;

~~[(e) Antidiabetic medications;~~

~~(f)]~~ ***(c)*** Antihemophilic medications; and

~~[(g)]~~ ***(d)*** Any prescription drug which the ~~[Committee]~~ ***Board*** identifies as appropriate for exclusion from any restrictions that are imposed ***by the Medicaid program*** on drugs that are on the list of preferred prescription drugs.

3. The regulations must provide that the ~~[Committee]~~ ***Board*** makes the final determination of:

(a) Whether a class of therapeutic prescription drugs is included on the list of preferred prescription drugs and is excluded from any restrictions that are imposed ***by the Medicaid program*** on drugs that are on the list of preferred prescription drugs;

(b) Which therapeutically equivalent prescription drugs will be reviewed for inclusion on the list of preferred prescription drugs and for exclusion from any restrictions that are imposed ***by the Medicaid program*** on drugs that are on the list of preferred prescription drugs; and

(c) Which prescription drugs should be excluded from any restrictions that are imposed ***by the Medicaid program*** on drugs that are 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.

4. 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]~~ ***Board*** reviews the product or the evidence.

5. On or before February 1 of each year, the Department shall:

(a) Compile a report concerning the agreements negotiated pursuant to paragraph (b) of subsection 1 and contracts entered into pursuant to section 31.15 of this act which must include, without limitation, the ~~[total amount of money saved by the health benefit plans described in paragraph (a) of subsection 1 by]~~ financial effects of obtaining prescription drugs through those agreements ~~[;]~~ and contracts, in total and aggregated separately for agreements negotiated by the Department, contracts with a pharmacy benefit manager and contracts with a health maintenance organization; and

(b) ~~[Submit]~~ Post the report on an Internet website maintained by the Department and submit the report to the Director of the Legislative Counsel Bureau for transmittal to:

(1) In odd-numbered years, the Legislature; or

(2) In even-numbered years, the Legislative Commission.

Sec. 31.45. NRS 422.403 is hereby amended to read as follows:

422.403 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 Use 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; and

(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 Use Review Board to develop, review or approve prior authorization policies or procedures necessary for the operation of the list of preferred prescription drugs developed ~~[for the Medicaid program]~~ pursuant to NRS 422.4025.

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

Sec. 31.5. ~~[NRS 422.403 is hereby amended to read as follows:~~

~~422.403 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 Use 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; and~~

~~(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 Use Review Board to develop, review or approve prior authorization policies or procedures necessary for the operation of the list of preferred prescription drugs developed pursuant to NRS 422.4025.~~

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

~~***5. The Department shall not pay an amount for a prescription drug distributed pursuant to Medicaid or the Children's Health Insurance Program that exceeds any upper payment limit prescribed for that drug pursuant to section 21 of this act. For the purposes of this subsection, the amount paid for a prescription drug means the price paid for the drug, less any rebates received by the Department.***~~ **(Deleted by amendment.)**

Sec. 31.55. NRS 422.4035 is hereby amended to read as follows:

422.4035 1. The Director shall create ~~[a Pharmacy and Therapeutics Committee]~~ ***the Silver State Scripts Board*** within the Department. The ~~[Committee]~~ ***Board*** must consist of ~~[at least 5]~~ ***such*** members ~~[and not more than***

~~11 members]~~ ***as are*** appointed by the ~~[Governor based on recommendations from the]~~ Director.

2. The ~~[Governor]~~ ***Director*** shall appoint to the ~~[Committee]~~ ***Board*** 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]~~ ***Board*** 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]~~ ***Board*** 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]~~ ***Board*** if the person 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. 31.6. NRS 422.404 is hereby amended to read as follows:

422.404 1. The ~~[Governor]~~ ***Director*** shall appoint the Chair of the ~~[Committee]~~ ***Board*** from among its members.

2. After the initial terms, the term of each member of the ~~[Committee]~~ ***Board*** is 2 years. A member may be reappointed.

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

4. The ~~[Committee]~~ ***Board*** shall meet at least once every 3 months and at the times and places specified by a call of the Chair of the ~~[Committee.]~~ ***Board.***

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

Sec. 31.7. NRS 422.4045 is hereby amended to read as follows:

422.4045 1. Members of the ~~[Committee]~~ ***Board*** serve without compensation, except that a member of the ~~[Committee]~~ ***Board*** is entitled, while engaged in the business of the ~~[Committee,]~~ ***Board,*** to receive the per diem allowance and travel expenses provided for state officers and employees generally.

2. Each member of the ~~[Committee]~~ ***Board*** who is an officer or employee of the State of Nevada or a local government must be relieved from his or her duties without loss of regular compensation so that the person may prepare for and attend meetings of the ~~[Committee]~~ ***Board*** and perform any work necessary to carry out the duties of the ~~[Committee]~~ ***Board*** 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]~~ ***Board*** to make up the time that the officer or employee is absent from work to carry out any duties as a member of the ~~[Committee]~~ ***Board*** or to use annual vacation or compensatory time for the absence.

Sec. 31.8. NRS 422.405 is hereby amended to read as follows:

422.405 1. The Department shall, by regulation, set forth the duties of the ~~[Committee]~~ ***Board,*** 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]~~ pursuant to NRS 422.4025 ~~[and]~~ ***, which must include, without limitation, any prescription drug required by the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services to be covered by the Medicaid program and any other prescription drug deemed essential by the Board;***

(b) Identifying the prescription drugs which should be excluded from any restrictions that are imposed ***by the Medicaid program*** on drugs that are on the list of preferred prescription drugs;

~~[(b)]~~ ***(c)*** 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)]~~ ***(d)*** 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]~~ pursuant to NRS 422.4025.

2. The Department shall, by regulation, require the ~~[Committee]~~ ***Board*** 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;]~~ ***and outcomes for patients and, if the difference between the clinical efficacy, safety and outcomes for two or more drugs is not clinically significant, cost;***

(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]~~ and new clinical evidence supporting the exclusion of an existing pharmaceutical product from any restrictions that are imposed ***by the Medicaid program*** on drugs that are on the list of preferred prescription drugs in as expeditious a manner as possible.

3. The Department shall, by regulation, authorize the ~~[Committee]~~ ***Board*** 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]~~ ***Board*** carries out its duties.

4. The Board may close any portion of a meeting during which it considers the cost of prescription drugs.

Sec. 31.9. NRS 422.406 is hereby amended to read as follows:

422.406 1. The Department may, to carry out its duties set forth in NRS 422.27172 to 422.27178, inclusive, and 422.401 to 422.406, inclusive, ***and sections 31.05 to 31.2, inclusive, of this act*** and to administer the provisions of those sections:

(a) Adopt regulations; and

(b) Enter into contracts for any services.

2. Any regulations adopted by the Department pursuant to NRS 422.27172 to 422.27178, inclusive, and 422.401 to 422.406, inclusive, ***and sections 31.05 to 31.2, inclusive, of this act*** must be adopted in accordance with the provisions of chapter 241 of NRS.

Sec. 32. (Deleted by amendment.)

Sec. 32.5. **NRS 683A.178 is hereby amended to read as follows:**

683A.178 ***1.*** A pharmacy benefit manager has ~~[a fiduciary duty to]~~ ***an obligation of good faith and fair dealing toward*** a third party ~~[with]~~ ***or pharmacy when performing duties pursuant to a contract to*** which the pharmacy benefit

manager ~~[has entered into a contract to manage the pharmacy benefits plan of the third party and]~~ ***is a party. Any provision of a contract that waives or limits that obligation is against public policy, void and unenforceable.***

2. A pharmacy benefit manager shall notify ~~[the]~~ ***a*** third party ***with which it has entered into a contract*** in writing of any activity, policy or practice of the pharmacy benefit manager that presents a conflict of interest that interferes with the ~~[ability of the pharmacy benefit manager to discharge that fiduciary duty.]~~ ***obligations imposed by subsection 1.***

Sec. 33. Chapter 687B of NRS is hereby amended by adding thereto a new section to read as follows:

1. A nonprofit health benefit plan may use the list of preferred prescription drugs developed by the Department of Health and Human Services pursuant to subsection 1 of NRS 422.4025 as its formulary and obtain prescription drugs through the purchasing agreements negotiated by the Department pursuant to that section by notifying the Department in the form prescribed by the Department.

2. As used in this section "health benefit plan" has the meaning ascribed to it in section 31.05 of this act.

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Sec. 35.5. ~~[Section 28.5 of this act is hereby amended to read as follows:~~

~~Sec. 28.5. Chapter 287 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~A governing body of a county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides coverage of prescription drugs pursuant to NRS 287.010 or any issuer of a policy of health insurance purchased pursuant to NRS 287.010 [may] :~~

~~***1. May*** use the list of preferred prescription drugs developed by the Department of Health and Human Services pursuant to subsection 1 of NRS 422.4025 as its formulary and obtain prescription drugs through the purchasing agreements negotiated by the Department pursuant to that section by notifying the Department in the form prescribed by the Department [.] ***; and***~~

~~***2. Shall not pay an amount for a prescription drug that exceeds any upper payment limit prescribed for that drug pursuant to section 21 of this act. For the purposes of this subsection, the amount paid for a prescription drug means the price paid for the drug, less any rebates received by the governing body or issuer, as applicable.]*** **(Deleted by amendment.)**

Sec. 36. (Deleted by amendment.)

Sec. 36.1. ~~[As used in sections 36.1 to 38.9, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 36.2 to 36.8, inclusive, of this act have the meanings ascribed to them in those sections.]~~ **(Deleted by amendment.)**

Sec. 36.2. ~~["Health carrier" has the meaning ascribed to it in section 7 of this act.]~~ **(Deleted by amendment.)**

Sec. 36.3. ~~["Manufacturer" has the meaning ascribed to it in NRS 639.009.]~~ **(Deleted by amendment.)**

Sec. 36.4. ~~["Pharmacy benefit manager" has the meaning ascribed to it in NRS 683A.174.]~~ **(Deleted by amendment.)**

Sec. 36.5. ~~[“Prescription Drug Affordability Board” means the Prescription Drug Affordability Board established by section 12 of this act.]~~ **(Deleted by amendment.)**

Sec. 36.6. ~~[“Prescription Drug Affordability Stakeholder Council” means the Prescription Drug Affordability Stakeholder Council established by section 15 of this act.]~~ **(Deleted by amendment.)**

Sec. 36.8. ~~[“Wholesaler” has the meaning ascribed to it in NRS 639.016.]~~ **(Deleted by amendment.)**

Sec. 37. ~~[As soon as practicable after July 1, 2019:~~

~~1. The Governor and the Majority Leader of the Senate shall appoint to the Prescription Drug Affordability Board:~~

~~(a) The regular members described in paragraphs (a) and (b), respectively, of subsection 1 of section 12 of this act to terms of 2 years; and~~

~~(b) The alternate members described in paragraphs (a) and (b), respectively, of subsection 2 of section 12 of this act to terms of 4 years.~~

~~2. The Speaker of the Assembly, the Attorney General and the Majority Leader of the Senate and Speaker of the Assembly shall appoint to the Prescription Drug Affordability Board the regular members described in paragraphs (c), (d) and (e), respectively, of subsection 1 of section 12 of this act to terms of 4 years.~~

~~3. The Speaker of the Assembly shall appoint to the Prescription Drug Affordability Board the alternate member described in paragraph (c) of subsection 2 of section 12 of this act to a term of 2 years.]~~ **(Deleted by amendment.)**

Sec. 38. ~~[As soon as practicable after July 1, 2019:~~

~~1. The Speaker of the Assembly shall appoint to the Prescription Drug Affordability Stakeholder Council:~~

~~(a) The members described in paragraphs (a), (b) and (c) of subsection 2 of section 15 of this act to terms of 1 year;~~

~~(b) The members described in paragraphs (d), (e) and (f) of subsection 2 of section 15 of this act to terms of 2 years; and~~

~~(c) The members described in paragraphs (g) and (h) of subsection 2 of section 15 of this act to terms of 3 years.~~

~~2. The Majority Leader of the Senate shall appoint to the Prescription Drug Affordability Stakeholder Council:~~

~~(a) The members described in paragraphs (g), (h) and (i) of subsection 3 of section 15 of this act to terms of 1 year;~~

~~(b) The members described in paragraphs (b), (c) and (d) of subsection 3 of section 15 of this act to terms of 2 years; and~~

~~(c) The members described in paragraphs (a), (e) and (f) of subsection 3 of section 15 of this act to terms of 3 years.~~

~~3. The Governor shall appoint to the Prescription Drug Affordability Stakeholder Council:~~

~~(a) The members described in paragraphs (a), (b) and (c) of subsection 3 of section 15 of this act to terms of 1 year;~~

~~(b) The members described in paragraphs (g), (h) and (i) of subsection 3 of section 15 of this act to terms of 2 years; and~~

~~(c) The members described in paragraphs (d), (e) and (f) of subsection 3 of section 15 of this act to terms of 3 years.]~~ **(Deleted by amendment.)**

Sec. 38.3. ~~[1. On or before December 31, 2020, the Prescription Drug Affordability Board, in collaboration with the Prescription Drug Affordability Stakeholder Council, shall:~~

~~(a) Study the system of distributing and paying for prescription drugs in this State and policy options used in other states and countries to lower the wholesale~~

~~acquisition cost of prescription drugs, including, without limitation, setting upper payment limits, using reverse auctions and bulk purchasing; and~~

~~(b) Submit to the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a report of the findings of the study, any recommendations for legislation to implement policies determined effective by the Board and the manner in which the findings of the study will affect the actions of the Board taken pursuant to section 21 of this act.~~

~~2. As used in this section:~~

~~(a) "Reverse auction" means a process by which a bidder may submit more than one bid if each subsequent response to bidding is at a lower price.~~

~~(b) "Upper payment limit" means a maximum amount that may be paid for a dose of a prescription drug.~~

~~(c) "Wholesale acquisition cost" has the meaning ascribed to it in NRS 439B.620.~~ **(Deleted by amendment.)**

Sec. 38.5. ~~[On or before December 31, 2020, the Prescription Drug Affordability Board shall:~~

~~1. Collect and review publicly available information concerning manufacturers, health carriers, wholesalers and pharmacy benefit managers that is relevant to the pricing of prescription drugs; and~~

~~2. Identify states that require reporting on the cost of prescription drugs and seek to enter into memorandums of understanding pursuant to section 20 of this act for the sharing of information with those states.~~ **(Deleted by amendment.)**

Sec. 38.7. ~~[On or before December 31, 2020, the Prescription Drug Affordability Board shall:~~

~~1. Study potential funding sources for the Board, including, without limitation:~~

~~(a) Imposing a fee on manufacturers, pharmacy benefit managers, health carriers, wholesalers or other entities involved in the distribution or purchasing of prescription drugs;~~

~~(b) Using rebates obtained by public insurance plans in this State, including, without limitation, Medicaid, the Public Employees' Benefits Program and plans established by governing bodies of local governments pursuant to NRS 287.010; and~~

~~(c) Any other methods of funding determined by the Board to be feasible and appropriate.~~

~~2. Select a method or combination of methods of funding that the Board determines will provide adequate money for the operation of the Board.~~

~~3. Submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a report of recommendations for legislation necessary to utilize the method or methods of funding selected by the Board.~~ **(Deleted by amendment.)**

Sec. 38.9. ~~[On or before November 1, 2024, the Department of Health and Human Services, in consultation with the Prescription Drug Affordability Board and the Prescription Drug Affordability Stakeholder Council, shall:~~

~~1. Develop a report concerning the impact of state and local policies, including, without limitation, any actions taken pursuant to sections 2 to 23, inclusive, of this act, on the affordability of prescription drugs and access to hospital services in this State; and~~

~~2. Submit the report to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.~~ **(Deleted by amendment.)**

Sec. 39. (Deleted by amendment.)

Sec. 39.5. 1. Notwithstanding any other provision of law, the terms of the members appointed to the Pharmacy and Therapeutics Committee established pursuant to NRS 422.4035, as that section exists on June 30, 2019, expire on that date.

2. The Director of the Department of Health and Human Services may appoint to the Silver State Scripts Board established pursuant to NRS 422.4035, as amended by section 31.55 of this act, a person who served as a member of the Pharmacy and Therapeutics Committee established pursuant to NRS 422.4035, as that section exists on June 30, 2019.

Sec. 40. ~~[1.]~~ The amendatory provisions of sections 31.15 ~~[,]~~ **and** 31.2 ~~[and 31.25]~~ of this act do not apply to any contract or other agreement entered into before ~~[July 1, 2019,]~~ **January 1, 2020,** but apply to ~~[any]~~ **the renewal of any such** contract or other agreement **and to any contract or other agreement** entered into or renewed on or after ~~[July 1, 2019.~~

~~2. The amendatory provisions of sections 21, 26, 29.6, 31.5 and 35.5 of this act apply to any contract or other agreement entered into before, on or after]~~ January 1, ~~[2022.]~~ **2020.**

Sec. 41. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 42. ~~[1. This section and sections 1 to 20, inclusive, 22 to 25, inclusive, 27 to 29.3, inclusive, 31 to 31.45, inclusive, 31.55 to 33, inclusive, and 36.1 to 41, inclusive, of this act become effective on July 1, 2019.~~

~~2. Sections 21, 26, 29.6, 31.5 and 35.5 of this act become effective on January 1, 2022.]~~ **This act becomes effective:**

1. Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On January 1, 2020, for all other purposes.