

SENATE BILL NO. 396—COMMITTEE ON  
HEALTH AND HUMAN SERVICES

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

MARCH 26, 2021

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to the purchasing of  
prescription drugs. (BDR 38-443)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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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; authorizing public agencies  
of this State to enter into agreements with certain entities  
in other jurisdictions for the collaborative purchasing of  
prescription drugs; and providing other matters properly  
relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes a public agency of this State to enter into a joint or  
cooperative agreement with a public agency of this State or another state or the  
Federal Government to exercise any power, privilege or authority of the public  
agency. (NRS 277.110) Existing law additionally authorizes state agencies to  
cooperate with other public entities within or outside of this State to purchase  
prescription drugs, pharmaceutical services, or medical supplies and related  
services. (NRS 333.435) **Sections 3.3 and 3.6** of this bill additionally authorize  
public agencies in this State to enter into agreements for the purchase of  
prescription drugs, pharmaceutical services, or medical supplies and related  
services with private entities within or outside of this State. **Sections 1 and 2** of this  
bill authorize the Department of Health and Human Services to enter into such an  
agreement for the purchase of prescription drugs for Medicaid or the Children's  
Health Insurance Program.



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

**Section 1.** NRS 422.4025 is hereby amended to read as follows:

422.4025 1. The Department shall:

(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 287.012, 287.0433 or 687B.407; 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 NRS 422.4053 with a pharmacy benefit manager, ~~for~~ health maintenance organization ~~or~~ *or one or more public or private entities in this State, the District of Columbia or other states or territories of the United States*, as appropriate, to negotiate such agreements.

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) 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;

(b) Antirejection medications for organ transplants;

(c) Antihemophilic medications; and

(d) Any prescription drug which the 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 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



1 program on drugs that are on the list of preferred prescription drugs;  
2 and

3 (c) Which prescription drugs should be excluded from any  
4 restrictions that are imposed by the Medicaid program on drugs that  
5 are on the list of preferred prescription drugs based on continuity of  
6 care concerning a specific diagnosis, condition, class of therapeutic  
7 prescription drugs or medical specialty.

8 4. The list of preferred prescription drugs established pursuant  
9 to subsection 1 must include, without limitation, any prescription  
10 drug determined by the Board to be essential for treating sickle cell  
11 disease and its variants.

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

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

19 (a) Compile a report concerning the agreements negotiated  
20 pursuant to paragraph (b) of subsection 1 and contracts entered into  
21 pursuant to NRS 422.4053 which must include, without limitation,  
22 the financial effects of obtaining prescription drugs through those  
23 agreements and contracts, in total and aggregated separately for  
24 agreements negotiated by the Department, contracts with a  
25 pharmacy benefit manager , ~~and~~ contracts with a health  
26 maintenance organization ~~and~~ *and contracts with public and private*  
27 *entities from this State, the District of Columbia and other states*  
28 *and territories of the United States;* and

29 (b) Post the report on an Internet website maintained by the  
30 Department and submit the report to the Director of the Legislative  
31 Counsel Bureau for transmittal to:

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

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

34 **Sec. 2.** NRS 422.4053 is hereby amended to read as follows:

35 422.4053 1. Except as otherwise provided in subsection 2,  
36 the Department shall directly manage, direct and coordinate all  
37 payments and rebates for prescription drugs and all other services  
38 and payments relating to the provision of prescription drugs under  
39 the State Plan for Medicaid and the Children's Health Insurance  
40 Program.

41 2. The Department may enter into a contract with:

42 (a) A pharmacy benefit manager for the provision of any  
43 services described in subsection 1.

44 (b) A health maintenance organization pursuant to NRS 422.273  
45 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.

*(c) One or more public or private entities from this State, the District of Columbia or other states or territories of the United States for the collaborative purchasing of prescription drugs in accordance with subsection 3 of NRS 277.110.*

3. A contract entered into pursuant to *paragraph (a) or (b) of* subsection 2 must:

(a) Include the provisions required by NRS 422.4056; and

(b) Require the 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 pharmacy benefit manager or health maintenance organization pursuant to the contract.

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 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. 3.** (Deleted by amendment.)

**Sec. 3.3.** NRS 277.110 is hereby amended to read as follows:

277.110 Except as limited by NRS 280.105 and 711.175:

1. Any power, privilege or authority exercised or capable of exercise by a public agency of this State, including, but not limited to, law enforcement, may be exercised jointly with any other public agency of this State, and jointly with any public agency of any other state or of the United States to the extent that the laws of such other state or of the United States permit such joint exercise. Any agency of this State when acting jointly with any other public agency may exercise all the powers, privileges and authority conferred by NRS 277.080 to 277.180, inclusive, upon a public agency.



2. Any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the provisions of NRS 277.080 to 277.170, inclusive.

3. *A public agency may enter into an agreement with any other public agency or private entity in this State, the District of Columbia or any other state or territory of the United States or any agency of the United States for the purchase of prescription drugs, pharmaceutical services, or medical supplies and related services to the extent that the laws applicable to each participating agency and entity permit such an agreement.*

4. If it is reasonably foreseeable that a participating public agency will be required to:

(a) Expend more than \$25,000 to carry out ~~[such]~~ an agreement ~~as~~ *described in this section*, the agreement:

(1) Must be in writing.

(2) Becomes effective only upon ratification by appropriate ordinance, resolution or otherwise pursuant to law on the part of the governing bodies of the participating public agencies.

(b) Expend \$25,000 or less to carry out such an agreement, each participating public agency shall maintain written documentation of the terms of the agreement for at least 3 years after the date on which the agreement was entered into.

**Sec. 3.6.** NRS 333.435 is hereby amended to read as follows:

333.435 1. Except as otherwise provided in subsection 2, a using agency shall purchase prescription drugs, pharmaceutical services, or medical supplies and related services, or any combination thereof, only through the Purchasing Division.

2. A using agency may, on its own behalf or in cooperation with one or more other using agencies or *, in accordance with the provisions of subsection 3 of NRS 277.110,* other governmental entities *or private entities* within or outside this State, purchase prescription drugs, pharmaceutical services, or medical supplies and related services from an entity other than the Purchasing Division if the using agency or using agencies or other governmental entities, as applicable, can obtain the best value for prescription drugs, pharmaceutical services, or medical supplies and related services from the other entity and the Purchasing Division is unable to match or exceed that best value in a timely manner.

3. If a using agency purchases prescription drugs, pharmaceutical services, or medical supplies and related services from an entity other than the Purchasing Division pursuant to subsection 2, the using agency shall report to the Purchasing Division, within 10 days after the initial purchase:

(a) The purchase price for the prescription drugs, pharmaceutical services, or medical supplies and related services; and



1 (b) The name, address and telephone number of the entity that  
2 sold the using agency the prescription drugs, pharmaceutical  
3 services, or medical supplies and related services.

4 **Sec. 4.** (Deleted by amendment.)

5 **Sec. 5.** The provisions of subsection 1 of NRS 218D.380 do  
6 not apply to any provision of this act which adds or revises a  
7 requirement to submit a report to the Legislature.

8 **Sec. 6.** This act becomes effective upon passage and approval.

