COMMITTEE TO CONDUCT AN INTERIM STUDY CONCERNING THE COSTS OF PRESCRIPTION DRUGS

Senate Bill 276
(Chapter 324, *Statutes of Nevada 2019*)

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Section 25.

1. The Legislative Commission shall appoint a committee to conduct an interim study concerning the cost of prescription drugs in this State and the impact of rebates, reductions in price and other remuneration from manufacturers on prescription drug prices.

2. The interim committee must be composed of six Legislators as follows:

(a) Two members appointed by the Majority Leader of the Senate;

(b) Two members appointed by the Speaker of the Assembly;

(c) One member appointed by the Minority Leader of the Senate; and

(d) One member appointed by the Minority Leader of the Assembly.

3. The Legislative Commission shall appoint a Chair and Vice Chair from among the members of the interim committee.

4. In conducting the study, the interim committee shall consult with and solicit input from persons and organizations with expertise in matters relevant to the costs of prescription drugs and the impact of rebates, reductions in price and other remuneration from manufacturers on prescription drug prices.

5. The interim committee shall study and examine:

(a) The overall costs of prescription drugs in this State, including, without limitation, a comparison of those costs with other states;

(b) The impact of rebates, reductions in price and other remuneration from manufacturers on the overall costs of prescription drugs in this State; and

(c) Opportunities and options for lowering the costs of prescription drugs to make those drugs more affordable for the residents of this State.

6. The Legislative Commission shall submit a report of the results of the study, including any recommendations for legislation to:

(a) The Legislative Committee on Health Care; and

(b) The Director of the Legislative Counsel Bureau for transmittal to the 81st Session of the Nevada Legislature.

7. As used in this section, “manufacturer” has the meaning ascribed to it in NRS 639.009.

ABSTRACT

COMMITTEE TO CONDUCT AN INTERIM STUDY CONCERNING THE COSTS OF PRESCRIPTION DRUGS

Senate Bill 276
(Chapter 324, *Statutes of Nevada 2019*)

Senate Bill 276, which was passed during the 2019 Legislative Session, directed the Legislative Commission to appoint a committee to conduct an interim study concerning the costs of prescription drugs in Nevada and the impact of rebates, price reductions, and other remuneration from drug manufacturers on prescription drug prices. For the 2019–2020 Legislative Interim, the Commission established the Committee to Conduct an Interim Study Concerning the Costs of Prescription Drugs comprised of six legislators, three from each house.

The Committee held four meetings during the 2019–2020 Interim. The first two meetings were held in the Grant Sawyer State Office Building in Las Vegas, Nevada, with videoconferencing to the Legislative Building in Carson City, Nevada. The last two meetings were conducted in a virtual format due to in-person meeting restrictions caused by the Coronavirus Disease of 2019 (COVID-19) pandemic. Each meeting focused primarily on the following specific areas:

- January 30, 2020—Overview of prescription drug pricing;
- February 28, 2020—Stakeholders' perspectives on the costs of prescription drugs;
- July 1, 2020—Federal laws and regulations and state policy options; and
- September 9, 2020—Final work session.

This was a multifaceted study regarding the costs of prescription drugs, including the prescription drug supply chain, underlying reasons for the high costs of drugs, current policy interventions on the federal and state levels, and feasible policy options to make drug prices more affordable and transparent to Nevadans. Representatives of Nevada's Department of Health and Human Services along with various stakeholders with expertise in matters relevant to the cost of prescription drugs provided valuable information and recommendations to the Committee. The complex system of pharmaceutical sales, rebates, and remuneration was thoroughly evaluated, and federal laws and regulations that limit state action were identified and discussed.

The Committee approved recommendations for five bill draft requests to be considered by the 81st Session of the Nevada Legislature in 2021 addressing the following topics: (1) establishing intra- and interstate prescription drug purchasing coalitions; (2) providing for the licensure of pharmaceutical sales representatives; (3) expanding pharmaceutical drug pricing transparency; (4) further regulating pharmacy benefit managers; and (5) requiring a certain percentage of health plans offered in Nevada to provide expanded coverage for prescription drugs.

SUMMARY OF RECOMMENDATIONS

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This summary presents the recommendations approved by the Committee to Conduct an Interim Study Concerning the Costs of Prescription Drugs at its meeting on September 9, 2020. The bill draft requests (BDRs) will be forwarded to the Legislative Commission for transmittal to the 81st Session of the Nevada Legislature.

RECOMMENDATIONS FOR LEGISLATION

1. Propose legislation to allow Nevada's Department of Health and Human Services (DHHS) to establish intra- and interstate purchasing coalitions, which consolidate the purchasing power of agencies within a state or different states to obtain prescription drugs in bulk in order to negotiate lower prices from wholesalers or directly from drug manufacturers. The intrastate purchasing coalition may consolidate purchasing power with any state or local agency with a pharmacy benefit program in a purchasing coalition. Commercial health plan providers are authorized to join an intrastate purchasing coalition as well. The state may also form a new or join an existing interstate purchasing coalition comprised of different states to combine the purchasing power of whole states to purchase pharmaceutical products at lower costs. **(BDR –)**

2. Propose legislation to amend statutes related to the reporting of pharmaceutical sales representatives (*Nevada Revised Statutes* [NRS] 439B.660) to require DHHS to license representatives who are operating within the state. **(BDR –)**

3. Propose legislation to amend statutes NRS 439B.600 through 439B.695 related to the reporting and tracking of information concerning the pricing of asthma and diabetes prescription drugs to:

    a. Expand NRS 439B.635 and 439B.640 to require the manufacturer of any prescription drug which has increased in price as described in subsection 2 of NRS 439B.630, in addition to essential diabetes and asthma medications, to report the information described in those sections;

    b. Require pharmacy benefit managers (PBMs), wholesale drug distributors, and insurers who cover prescription drugs to report additional information;

    c. Require the reporting entities to register with DHHS and to be subject to annual assessments by DHHS;

    d. Amend existing penalties set forth in NRS 439B.695 for failure to provide information;

    e. Require DHHS to make a report available on its website on emerging trends in prescription drug prices and conduct an annual public hearing based on the report findings; and

f. Keep all existing definitions in statutes; however, when adding new definitions, use to the extent possible existing definitions in federal law, and, if not available, use the definitions provided in the model legislation. **(BDR –)**

4. Propose legislation to amend statutes related to PBMs to:

   a. Require PBMs operating within the state to obtain a license from DHHS;

   b. Prohibit PBMs from using spread pricing. Specify that a PBM shall agree to only enter into contracts with third-party payers, such as commercial, governmental, or nonprofit health insurance providers that are fully transparent to the contractual parties, including, but not limited to, the disclosure of all rebates, discounts, product pricing incentives, and fees collected by a PBM. The PBM's only source of income shall be from disclosed administration fees for services. All manufacturer discounts, product pricing incentives, and fees collected by a PBM must be reimbursed to the third-party payer and rebates must be passed down to patients;

   c. Require a PBM to allow a client—such as a health insurance provider contracting with a PBM to fulfill its prescription drug benefits—full audit rights, including, but not limited to, pharmacy claims, rebates, and similar information needed to assure compliance; and

   d. Establish a fiduciary responsibility for a PBM to a third-party payer. The benefit of the payer is the primary and sole interest of the fiduciary and any conflict with that role must be disclosed and avoided. **(BDR –)**

5. Propose legislation to require that at least half of the health plans offered by providers in Nevada have:

   a. Prescription drug coverage from the first day with no deductibles;

   b. Fixed prescription copayments which allow patients to pay a flat-dollar amount per prescription and is not percentage based; and

   c. Limited copayments of not more than one-twelfth of the patient's annual out-of-pocket spending maximum. **(BDR –)**