

ASSEMBLY BILL NO. 259—ASSEMBLYMEMBER CONSIDINE

FEBRUARY 19, 2025

Referred to Committee on Commerce and Labor

SUMMARY—Establishes provisions governing prescription drugs. (BDR 40-165)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact. 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 health care; prohibiting certain actions related to pricing and reimbursement for certain drugs; creating a cause of action for violating such prohibitions; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing federal law establishes the Medicare program, which is a public health
2 insurance program for persons 65 years of age and older and specified persons with
3 disabilities who are under 65 years of age. (42 U.S.C. §§ 1395 et seq.) Existing
4 federal law requires the United States Secretary of Health and Human Services to
5 negotiate with the manufacturers of certain drugs and to establish the maximum fair
6 price for certain drugs, which is the maximum price at which such drugs may be
7 sold to a recipient of Medicare. (42 U.S.C. §§ 1320f-2, 1320f-3) Existing federal
8 law requires the Secretary of Health and Human Services to publish those
9 maximum fair prices. (42 U.S.C. § 1320f-4) **Section 1** of this bill prohibits a person
10 or entity that: (1) purchases a drug which is subject to a maximum fair price in this
11 State from paying a price that is higher than the maximum fair price; or (2) seeks
12 reimbursement for a drug subject to a maximum fair price which is delivered,
13 dispensed or administered to a person in this State from seeking reimbursement at a
14 rate which is higher than the maximum fair price.

15 Existing law: (1) prohibits certain trade practices which are deemed to be
16 deceptive trade practices; and (2) provides for the enforcement of the prohibition on
17 engaging in deceptive trade practices, including by prescribing criminal penalties to
18 be imposed against a person who engages in a deceptive trade practice. (NRS
19 598.0903-598.0999) **Section 1** makes it a deceptive trade practice for any person to
20 violate the prohibition on purchasing or seeking reimbursement for a drug at a price
21 higher than the maximum fair price. **Sections 1 and 3** of this bill provide that a
22 person who violates the provisions of **section 1** is not subject to any criminal
23 penalty set forth in existing law for engaging in a deceptive trade practice, meaning
24 such a person is subject only to the various civil enforcement measures, including



25 civil penalties, set forth in existing law for engaging in a deceptive trade practice.
26 (NRS 598.097-598.0999)

27 Existing law authorizes any person who is a victim of consumer fraud,
28 including a deceptive trade practice, to bring a civil action. (NRS 41.600) **Section 2**
29 of this bill provides that a violation of **section 1** constitutes consumer fraud, and
30 **sections 1 and 2** authorize a victim of such a violation to bring a civil action.

1 WHEREAS, In the 2019 Legislative Session, Senate Bill No. 276
2 directed the Legislative Commission to appoint a committee to
3 conduct an interim study concerning the cost of prescription drugs
4 in this State and the impact of rebates, reductions in price and other
5 remuneration from manufacturers on prescription drug prices; and

6 WHEREAS, In reporting on the findings of the Committee to
7 Conduct an Interim Study Concerning the Costs of Prescription
8 Drugs, LCB Bulletin No. 21-9, published in January 2021, stated
9 that “[i]n 2018, Americans paid an average of \$1,229 for
10 prescription drugs, the highest amount per capita in any developed
11 country in the world”; and

12 WHEREAS, LCB Bulletin No. 21-9 also stated that “[i]ncreasing
13 drug prices disproportionately affect uninsured and underinsured
14 patients, while insured patients covered by high-deductible,
15 commercial, or government-sponsored health insurance plans tend
16 to pay more through premium and copay increases”; and

17 WHEREAS, The Nevada Spending and Government Efficiency
18 Commission noted in its final report, “Final Report of the Nevada
19 Spending and Government Efficiency Commission to Governor Jim
20 Gibbons,” published January 7, 2010, that the State of Nevada
21 would realize significant savings on Medicaid, mental health,
22 corrections and other programs if the cost of prescription drugs were
23 better controlled; and

24 WHEREAS, Excessive prices negatively affect the ability of
25 residents of this State to obtain prescription drugs, thereby
26 endangering the health and safety of such residents; and

27 WHEREAS, Excessive prices of prescription drugs threaten the
28 economic well-being of residents of this State, thereby inhibiting
29 their ability to pay for necessary and essential goods and services
30 including housing, food and utilities; and

31 WHEREAS, Excessive costs of prescription drugs contribute
32 significantly to increasing costs of health care and health insurance
33 that threaten the ability of residents of this State to obtain affordable
34 health coverage and maintain or achieve good health; and

35 WHEREAS, Excessive costs of prescription drugs contribute
36 significantly to rising costs for health care provided and paid for
37 through health insurance programs for public employees, including
38 employees of the State, municipalities, counties, school districts,



1 institutions for higher education and retirees whose health costs are
2 funded by taxpayer dollars, thereby threatening the ability of the
3 State and local governments to fund other programs necessary for
4 the public good and safety, such as public safety, police, fire and
5 education; and

6 WHEREAS, To protect residents of this State from the negative
7 effects from excessive costs of prescription drugs, and to protect the
8 safety, health and economic well-being of Nevadans, the Legislature
9 finds that legislation regarding affordable access to prescription
10 drugs is necessary for residents of this State to achieve and maintain
11 good health; now, therefore,

12
13 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
14 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:
15

16 **Section 1.** Chapter 439B of NRS is hereby amended by adding
17 thereto a new section to read as follows:

18 *1. A person or entity that purchases a referenced drug in this*
19 *State shall not pay a price for the referenced drug that, excluding*
20 *any fee paid to a pharmacy for dispensing the referenced drug, is*
21 *higher than the maximum fair price for that referenced drug*
22 *during the price applicability period.*

23 *2. A person or entity that seeks reimbursement for a*
24 *referenced drug which is delivered, dispensed or administered to a*
25 *person in this State shall not seek reimbursement for the*
26 *referenced drug at a rate which, excluding any fee paid to a*
27 *pharmacy for dispensing the referenced drug, is higher than the*
28 *maximum fair price for that referenced drug during the price*
29 *applicability period.*

30 *3. Except as otherwise provided in subsection 4, a violation of*
31 *subsection 1 or 2 by any person constitutes a deceptive trade*
32 *practice for the purposes of NRS 598.0903 to 598.0999, inclusive.*
33 *Each such violation of subsection 1 or 2 constitutes a separate*
34 *deceptive trade practice.*

35 *4. A person who violates the provisions of subsection 1 or 2 is*
36 *not subject to any criminal penalty set forth in subsection 3 of*
37 *NRS 598.0999.*

38 *5. A person aggrieved by a violation of subsection 1 or 2 may*
39 *bring an action for consumer fraud pursuant to NRS 41.600.*

40 *6. The Department may adopt any regulations necessary to*
41 *carry out the provisions of this section.*

42 *7. As used in this section:*

43 *(a) "Maximum fair price" means the maximum fair price for a*
44 *drug published by the United States Secretary of Health and*
45 *Human Services pursuant to 42 U.S.C. § 1320f-4.*



1 (b) *“Price applicability period” has the meaning ascribed to it*
2 *in 42 U.S.C. § 1320f(b)(2).*

3 (c) *“Referenced drug” means a drug subject to a maximum*
4 *fair price.*

5 **Sec. 2.** NRS 41.600 is hereby amended to read as follows:

6 41.600 1. An action may be brought by any person who is a
7 victim of consumer fraud.

8 2. As used in this section, “consumer fraud” means:

9 (a) An unlawful act as defined in NRS 119.330;

10 (b) An unlawful act as defined in NRS 205.2747;

11 (c) An act prohibited by NRS 482.36655 to 482.36667,
12 inclusive;

13 (d) An act prohibited by NRS 482.351;

14 (e) A deceptive trade practice as defined in NRS 598.0915 to
15 598.0925, inclusive; ~~for~~

16 (f) A violation of NRS 417.133 or 417.135 ~~;~~ *or*

17 (g) *A violation of section 1 of this act.*

18 3. If the claimant is the prevailing party, the court shall award
19 the claimant:

20 (a) Any damages that the claimant has sustained;

21 (b) Any equitable relief that the court deems appropriate; and

22 (c) The claimant’s costs in the action and reasonable attorney’s
23 fees.

24 4. Any action brought pursuant to this section is not an action
25 upon any contract underlying the original transaction.

26 **Sec. 3.** NRS 598.0999 is hereby amended to read as follows:

27 598.0999 1. Except as otherwise provided in NRS 598.0974,
28 a person who violates a court order or injunction issued pursuant to
29 the provisions of NRS 598.0903 to 598.0999, inclusive, upon a
30 complaint brought by the Commissioner, the Director, the district
31 attorney of any county of this State or the Attorney General shall
32 forfeit and pay to the State General Fund a civil penalty of not more
33 than \$10,000 for each violation. For the purpose of this section, the
34 court issuing the order or injunction retains jurisdiction over the
35 action or proceeding. Such civil penalties are in addition to any
36 other penalty or remedy available for the enforcement of the
37 provisions of NRS 598.0903 to 598.0999, inclusive.

38 2. Except as otherwise provided in NRS 598.0974, in any
39 action brought pursuant to the provisions of NRS 598.0903 to
40 598.0999, inclusive, if the court finds that a person has willfully
41 engaged in a deceptive trade practice, the Commissioner, the
42 Director, the district attorney of any county in this State or the
43 Attorney General bringing the action may recover a civil penalty not
44 to exceed \$15,000 for each violation. The court in any such action



1 may, in addition to any other relief or reimbursement, award
2 reasonable attorney's fees and costs.

3 3. ~~FA~~ *Except as otherwise provided in section 1 of this act, a*
4 natural person, firm, or any officer or managing agent of any
5 corporation or association who knowingly and willfully engages in a
6 deceptive trade practice:

7 (a) For an offense involving a loss of property or services valued
8 at \$1,200 or more but less than \$5,000, is guilty of a category D
9 felony and shall be punished as provided in NRS 193.130.

10 (b) For an offense involving a loss of property or services
11 valued at \$5,000 or more but less than \$25,000, is guilty of a
12 category C felony and shall be punished as provided in
13 NRS 193.130.

14 (c) For an offense involving a loss of property or services valued
15 at \$25,000 or more but less than \$100,000, is guilty of a category B
16 felony and shall be punished by imprisonment in the state prison for
17 a minimum term of not less than 1 year and a maximum term of not
18 more than 10 years, and by a fine of not more than \$10,000.

19 (d) For an offense involving a loss of property or services
20 valued at \$100,000 or more, is guilty of a category B felony and
21 shall be punished by imprisonment in the state prison for a
22 minimum term of not less than 1 year and a maximum term of not
23 more than 20 years, and by a fine of not more than \$15,000.

24 (e) For any offense other than an offense described in
25 paragraphs (a) to (d), inclusive, is guilty of a misdemeanor.

26 ↪ The court may require the natural person, firm, or officer or
27 managing agent of the corporation or association to pay to the
28 aggrieved party damages on all profits derived from the knowing
29 and willful engagement in a deceptive trade practice and treble
30 damages on all damages suffered by reason of the deceptive trade
31 practice.

32 4. If a person violates any provision of NRS 598.0903 to
33 598.0999, inclusive, 598.100 to 598.2801, inclusive, 598.405
34 to 598.525, inclusive, 598.741 to 598.787, inclusive, 598.840 to
35 598.966, inclusive, or 598.9701 to 598.9718, inclusive, fails to
36 comply with a judgment or order of any court in this State
37 concerning a violation of such a provision, or fails to comply with
38 an assurance of discontinuance or other agreement concerning an
39 alleged violation of such a provision, the Commissioner or the
40 district attorney of any county may bring an action in the name of
41 the State of Nevada seeking:

42 (a) The suspension of the person's privilege to conduct business
43 within this State; or

44 (b) If the defendant is a corporation, dissolution of the
45 corporation.



1 ↪ The court may grant or deny the relief sought or may order other
2 appropriate relief.

3 5. If a person violates any provision of NRS 228.500 to
4 228.640, inclusive, fails to comply with a judgment or order of any
5 court in this State concerning a violation of such a provision, or fails
6 to comply with an assurance of discontinuance or other agreement
7 concerning an alleged violation of such a provision, the Attorney
8 General may bring an action in the name of the State of Nevada
9 seeking:

10 (a) The suspension of the person’s privilege to conduct business
11 within this State; or

12 (b) If the defendant is a corporation, dissolution of the
13 corporation.

14 ↪ The court may grant or deny the relief sought or may order other
15 appropriate relief.

16 6. In an action brought by the Commissioner or the Attorney
17 General pursuant to subsection 4 or 5, process may be served by an
18 employee of the Consumer Affairs Unit of the Department of
19 Business and Industry or an employee of the Attorney General.

20 7. As used in this section:

21 (a) “Property” has the meaning ascribed to it in NRS 193.0225.

22 (b) “Services” has the meaning ascribed to it in NRS 205.0829.

23 (c) “Value” means the fair market value of the property or
24 services at the time the deceptive trade practice occurred. The value
25 of a written instrument which does not have a readily ascertainable
26 market value is the greater of the face amount of the instrument less
27 the portion satisfied or the amount of economic loss to the owner of
28 the instrument resulting from the deprivation of the instrument. The
29 trier of fact shall determine the value of all other property whose
30 value is not readily ascertainable, and may, in making that
31 determination, consider all relevant evidence, including evidence of
32 the value of the property to its owner.

33 **Sec. 4.** The provisions of this act do not apply to any contract
34 for the sale of or reimbursement for a drug entered into before
35 January 1, 2026, but do apply to any renewal or extension of such a
36 contract.

37 **Sec. 5.** 1. This section becomes effective upon passage and
38 approval.

39 2. Sections 1 to 4, inclusive, of this act become effective:

40 (a) Upon passage and approval for the purpose of adopting any
41 regulations and performing any other preparatory administrative
42 tasks that are necessary to carry out the provisions of this act; and

43 (b) On January 1, 2026, for all other purposes.



