HOUSE BILL No. 5598

May 27, 2014, Introduced by Reps. Yonker and Muxlow and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled

"Public health code,"

by amending sections 17702, 17704, and 17755 (MCL 333.17702, 333.17704, and 333.17755), section 17702 as amended by 2012 PA 209.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 17702. (1) "Agent" means an individual designated by a prescriber to act on behalf of or at the discretion of that prescriber as provided in section 17744.

(2) "BIOSIMILAR DRUG PRODUCT" MEANS A BIOLOGICAL PRODUCT THAT THE FDA HAS DETERMINED TO BE BIOSIMILAR TO A REFERENCE PRODUCT AND TO BE INTERCHANGEABLE WITH THAT REFERENCE PRODUCT FOR THE INDICATED USE AS PRESCRIBED. AS USED IN THIS SUBSECTION, "BIOLOGICAL PRODUCT", "BIOSIMILAR", "INTERCHANGEABLE", AND "REFERENCE PRODUCT" MEAN THOSE TERMS AS DEFINED IN 41 USC 262.

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(3) ~~(2)~~ "Brand name" means the registered trademark name given to a drug product by its manufacturer.

(4) ~~(3)~~ "Current selling price" means the retail price for a prescription drug that is available for sale from a pharmacy.

Sec. 17704. **(1) "FDA" MEANS THE UNITED STATES FOOD AND DRUG ADMINISTRATION.**

(2) ~~(1)~~ "Federal act" means the federal food, drug, and cosmetic act**,** ~~of 1938,~~ 21 ~~U.S.C.~~ **USC** 301 to ~~392.~~**399F.**

(3) ~~(2)~~ "Generic name" means the established or official name of a drug or drug product.

(4) ~~(3)~~ "Harmful drug" means a drug intended for use by human beings ~~which~~ **THAT** is harmful because of its toxicity, habit-forming nature, or other potential adverse effect, the method of its use, or the collateral measures necessary to its safe and effective use, and ~~which~~ **THAT** is designated as harmful by the **DEPARTMENT, IN CONSULTATION WITH A** board**,** according to rule.

(5) ~~(4)~~ "Internship" means an educational program of professional and practical experience for an intern.

Sec. 17755. (1) ~~When~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,** a pharmacist **WHO** receives a prescription for a brand name drug product ~~, the pharmacist may, or when a purchaser requests a lower cost generically equivalent drug product, the pharmacist shall~~ **MAY** dispense a lower cost ~~but not higher cost~~ generically equivalent drug product **OR LOWER COST BIOSIMILAR DRUG PRODUCT** if available in the pharmacy**.** ~~, except as provided in subsection (3). If~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, UPON THE REQUEST OF THE PURCHASER, A PHARMACIST WHO RECEIVES A PRESCRIPTION FOR A**

BRAND NAME DRUG PRODUCT SHALL DISPENSE A LOWER COST GENERICALLY EQUIVALENT DRUG PRODUCT OR LOWER COST BIOSIMILAR DRUG PRODUCT IF AVAILABLE IN THE PHARMACY. THE PHARMACIST SHALL NOTIFY THE PURCHASER IF a drug is dispensed ~~which~~ **THAT** is not the prescribed brand ~~, the purchaser shall be notified and the prescription label~~ **NAME DRUG PRODUCT. EXCEPT AS OTHERWISE PROVIDED IN SECTION 17756, THE PHARMACIST** shall indicate both the ~~name of the~~ brand **NAME OF THE DRUG PRODUCT** prescribed and the **GENERIC** name **OR BIOSIMILAR NAME** of the ~~brand~~ **DRUG PRODUCT** dispensed and designate each respectively **ON THE PRESCRIPTION LABEL**. ~~If~~ **EXCEPT AS OTHERWISE PROVIDED IN SECTION 17756, IF** the dispensed drug does not have a brand name, the ~~prescription label~~ **PHARMACIST** shall indicate the generic name **OR BIOSIMILAR NAME** of the drug **PRODUCT** dispensed ~~, except as otherwise provided in section 17756.~~**ON THE PRESCRIPTION LABEL.**

(2) If a pharmacist dispenses a generically equivalent drug product **OR BIOSIMILAR DRUG PRODUCT UNDER SUBSECTION (1)**, the pharmacist shall pass on the savings in cost to the purchaser or to the third party payment source if the prescription purchase is covered by a third party pay contract. The savings in cost is the difference between the wholesale cost to the pharmacist of the 2 drug products.

(3) IF A PHARMACIST DISPENSES A BIOSIMILAR DRUG PRODUCT UNDER SUBSECTION (1), THE PHARMACIST SHALL INDICATE THE BIOSIMILAR NAME AND THE FULL NAME OF THE MANUFACTURER AND DISTRIBUTOR, IF AVAILABLE, OF THE BIOSIMILAR DRUG PRODUCT DISPENSED ON THE FILE COPY OF THE PRESCRIPTION.

(4) ~~(3)~~ The pharmacist shall not dispense a generically

equivalent drug product **OR BIOSIMILAR DRUG PRODUCT** under subsection (1) if any of the following applies:

(a) The prescriber, in the case of a prescription in writing signed by the prescriber, writes in his or her own handwriting "dispense as written" or "d.a.w." on the prescription.

(b) The prescriber, having preprinted on his or her prescription blanks the statement "another brand of a generically equivalent **DRUG** product **OR BIOSIMILAR DRUG PRODUCT**, identical in dosage, form, and content of active ingredients, may be dispensed unless initialed d.a.w.", writes in his or her own handwriting, the initials "d.a.w." in a space, box, or square adjacent to the statement.

(c) The prescriber, in the case of a prescription other than ~~one~~ **1** in writing signed by the prescriber, expressly indicates the prescription is to be dispensed as communicated.

(5) ~~(4)~~ A pharmacist ~~may~~ **SHALL** not dispense a drug product with a total charge that exceeds the total charge of the drug product originally prescribed, unless agreed to by the purchaser.