

Legislative Analysis



INTERCHANGEABLE BIOLOGICAL DRUG PRODUCTS

Phone: (517) 373-8080
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House Bill 5805 as reported from committee
Sponsor: Rep. John Bizon, M.D.
Committee: Health Policy
Complete to 5-14-18

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 246 of 2018)

SUMMARY:

House Bill 5805 would amend the Public Health Code to revise the cost savings associated with substitution of generically equivalent drug products or interchangeable biological drug products.

Public Act 41 of 2018 (House Bill 4472)¹ amended Section 17755 of the Code. The bill was signed by the governor on February 28, 2018 and will take effect May 29, 2018.

Before PA 41, a pharmacist was required to pass along cost savings to a purchaser or third-party payment source if the pharmacist dispensed a generically equivalent drug product. PA 41 added the requirement that pharmacists also pass along the cost savings when dispensing an interchangeable biological drug product.

The bill would amend that provision so that the potential cost savings would apply only to a purchaser not submitting a claim to a third-party payment source (and not to the third-party payment source itself). However, while current law guarantees that the purchaser would pay no more than the wholesale price of the lower cost drug product, the bill would allow the pharmacist to charge no more than the retail price for the lower cost drug product. (Specifically, current law provides that the pharmacist must pass to the purchaser the cost savings in the difference between the wholesale costs of the two drug products, while the bill would allow the pharmacist to charge no more than the **current selling price** for the lower cost drug product. The Code defines **current selling price** as a prescription drug's retail price.)

The bill would take effect 90 days after enactment.

MCL 333.17755

FISCAL IMPACT:

House Bill 5805 would not have a significant fiscal impact on any unit of state or local government.

¹ House Fiscal Agency analysis of Public Act 41 of 2018 (HB 4472):
<http://www.legislature.mi.gov/documents/2017-2018/billanalysis/House/pdf/2017-HLA-4472-BBA31970.pdf>

BRIEF DISCUSSION:

According to committee testimony, the change in language codifies current practice, as the current selling price is already used when a generic drug is substituted.

POSITIONS:

A representative of the Michigan Retailers Association testified in support of the bill. (4-25-18)

A representative of the National Association of Chain Drug Stores testified in support of the bill. (4-25-18)

The following organizations support the bill:

- Rite Aid (4-25-18)
- Walgreens (4-25-18)
- Express Scripts (4-25-18)
- Michigan Pharmacists Association (4-25-18)
- CVS Health (5-2-18)
- The Michigan Association of Health Plans (5-2-18)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.