

PROPOSED AMENDMENT TO S.92

1 Sec. 2. 18 V.S.A. § 4605 is amended to read:

2 § 4605. ALTERNATIVE DRUG OR BIOLOGICAL PRODUCT
3 SELECTION

4 (a)(1) When a pharmacist receives a prescription for a drug which is listed
5 either by generic name or brand name in the most recent edition of or
6 supplement to the U.S. Department of Health and Human Services' publication
7 Approved Drug Products With Therapeutic Equivalence (the "Orange Book")
8 of approved drug products, the pharmacist shall select the lowest priced drug
9 from the list which is equivalent as defined by the "Orange Book," unless
10 otherwise instructed by the prescriber, or by the purchaser if the purchaser
11 agrees to pay any additional cost in excess of the benefits provided by the
12 purchaser's health benefit plan if allowed under the legal requirements
13 applicable to the plan, or otherwise to pay the full cost for the higher priced
14 drug.

15 (2) When a pharmacist receives a prescription for a biological product,
16 the pharmacist shall select the lowest priced biological product that is listed as
17 interchangeable in the U.S. Food and Drug Administration's Lists of Licensed
18 Biological Products with Reference Product Exclusivity and Biosimilarity or
19 Interchangeability Evaluations (the "Purple Book") unless otherwise instructed
20 by the prescriber, or by the purchaser if the purchaser agrees to pay any
21 additional cost in excess of the benefits provided by the purchaser's health

1 benefit plan if allowed under the legal requirements applicable to the plan, or
2 otherwise to pay the full cost for the higher priced biological product. **For purposes**
3 **of this section, in determining the “lowest priced biological product” a**
4 **pharmacist shall consider both the availability of a manufacturer**
5 **pharmaceutical assistance program and the out-of-pocket costs to the**
6 **purchaser.**

7 (b) The purchaser shall be informed by the pharmacist or his or her
8 representative that an alternative selection as provided under subsection (a) of
9 this section will be made unless the purchaser agrees to pay any additional cost
10 in excess of the benefits provided by the purchaser’s health benefit plan if
11 allowed under the legal requirements applicable to the plan, or otherwise to
12 pay the full cost for the higher priced drug or biological product.

13 (c) When refilling a prescription, **a** ~~pharmacists~~ shall receive the consent of
14 the prescriber to dispense a drug or biological product different from that
15 originally dispensed. ~~and~~ **If the pharmacist receives the consent of the prescriber**
16 **to dispense a drug or biological product different from that originally**
17 **dispensed, the pharmacist** shall inform the purchaser that a ~~generic~~-substitution
18 shall be made pursuant to this section unless the purchaser agrees to pay any
19 additional cost in excess of the benefits provided by the purchaser’s health
20 benefit plan if allowed under the legal requirements applicable to the plan, or
21 otherwise to pay the full cost for the higher priced drug or biological product.

15 (d) Any pharmacist substituting a generically equivalent drug or
16 interchangeable biological product shall charge no more than the usual and
17 customary retail price for that selected drug or biological product. This charge
18 shall not exceed the usual and customary retail price for the prescribed brand.

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