

## 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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