

SB 537 - PGCEX - Support.pdf

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Position: FAV



THE PRINCE GEORGE'S COUNTY GOVERNMENT

OFFICE OF THE COUNTY EXECUTIVE

BILL: Senate Bill 537 - Pharmacists - Required Notification and Authorized Substitution - Lower-Cost Drug or Device Product

SPONSOR: Senator Hershey

HEARING DATE: February 16, 2021

COMMITTEE: Education, Health, and Environmental Affairs

CONTACT: Intergovernmental Affairs Office, 301-780-8411

POSITION: SUPPORT

The Office of the Prince George's County Executive **SUPPORTS Senate Bill 537 - Pharmacists - Required Notification and Authorized Substitution - Lower-Cost Drug or Device Product**, which allows pharmacists to substitute a therapeutically equivalent brand-name prescription drug to the originally prescribed generic drug if the prescription is not specified to be dispensed only as directed, the substitution is recognized by the U.S. Food and Drug Administration, and the consumer will be charged less.

The cost of prescription medication is a well-known barrier to patients' full compliance with the prescribed course of treatment. Lower-cost and therapeutically equivalent treatments should be presented when available so patients can make an informed decision in their own best interest.

Prescription drug spending increased 5.7% to \$369.7 billion in 2019, faster than the 3.8% growth in 2018, according to the National Health Expenditure Data Fact Sheet.¹ Maryland residents should not need to choose between needed medication or other critical expenses, like food or utilities. These choices have both short and long-term health consequences. This bill is an important step towards limiting prescription expenses for Marylanders, enabling them to achieve better health and financial outcomes.

¹ National Health Expenditure Data Fact Sheet, Centers for Medicare & Medicaid Services, Dec. 16, 2020; Accessed on Jan. 31, 2021, at <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/NHE-Fact-Sheet>

Assuring access to high-quality, affordable health care, and reducing the burden of disease in Prince George's County have been core goals of the Prince George's Health Department during my administration. By reducing cost-related barriers to successful pharmaceutical treatment, **SB 537** will improve medication compliance, leading to better control of disease and improved health outcomes.

For these reasons, the Office of the Prince George's County Executive **SUPPORTS Senate Bill 537** and asks for a **FAVORABLE** report.

WDC Testimony SB0537_FINAL.pdf

Uploaded by: Koravos, JoAnne

Position: FAV



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

**Senate Bill 0537 – Pharmacists - Required Notification and Authorized Substitution - Lower-Cost
Drug or Device Product
Health and Government Operations Committee – February 16, 2021
SUPPORT**

Thank you for this opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club (WDC)** for the 2021 legislative session. WDC is one of the largest and most active Democratic Clubs in our County with hundreds of politically active women and men, including many elected officials.

WDC urges the passage of SB0537. This bill will provide additional transparency and cost-savings for a retail consumer at the pharmacy counter and requires pharmacists to disclose substitutions in a manner that is accessible to the consumer, including notifying the consumer about (1) the options available based on their prescription benefit, and (2) the cost difference between the prescribed drug or device and a lower priced equivalent.

According to the Maryland Department of Aging, the number of older citizens is increasing. By 2030, Maryland's population aged 60 and over is anticipated to increase by 40%. Over 56% of this older population will be female. Elderly women face significant challenges making ends meet. According to Census data, 12% of women aged 65 and older live in poverty, compared to 7.4% of their male peers. Furthermore, according to AARP, women are more likely to say they are taking a prescription drug than men.

Americans (particularly women over 50) say it is important that pharmaceutical companies be required to publish information about the cost and effectiveness of their medications to treat specific medical conditions. Health care costs increase as we age, and can be a significant budget item for those on a limited or fixed income. In fact, one in four Americans aged 50 and over who have taken a prescription drug in the past five years said they did not fill a prescription written by their doctor in the past two years, reporting cost as the main deterrent.

For older women, especially those on fixed incomes, transparency at the point of purchase and the ability to understand their options in advance not only helps them plan financially, but gives them the knowledge to have an informed discussion with their health care provider about the least costly alternatives.

We ask for your support for SB0537 and strongly urge a favorable Committee report.

Respectfully,

Diana Conway
President

SB 537 - Prescription Drug Notification.pdf

Uploaded by: Peterson, Matt

Position: FAV

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Carroll County
Congregation Tiferes Yisroel
Federation of Jewish Women's
Organizations of Maryland
Hadassah
Har Sinai - Oheb Shalom Congregation
J Street
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Shaarei Tfiloh Congregation
Shomrei Emenah Congregation
Simon E. Sobeloff Jewish Law Society
Suburban Orthodox Congregation
Temple Beth Shalom
Temple Isaiah
Zionist Organization of America
Baltimore District



WRITTEN TESTIMONY

Senate Bill 537 – Pharmacists – Required Notifications and Authorized Substitutions – Lower-Cost Drug or Device Product

Education, Health and Environmental Affairs Committee
February 16, 2021

SUPPORT

Background: Senate Bill 537 (SB537) would require Maryland pharmacists or pharmacy staff, to inform customers about the availability of less expensive prescription drugs or devices that are therapeutically equivalent.

Written Comments: The Baltimore Jewish Council (BJC) has long been concerned about the rising cost of health care, particularly pharmaceutical drugs and devices. Drug costs are a major cause of higher health care premiums, and cause significant financial challenges for seniors in our communities who live on fixed incomes.

Consumers should not be forced into paying sky high prices for life-saving medicine and devices, just because they are unaware that cheaper options exist. This bill would ensure that every consumer is always paying as little as necessary while still receiving the same product that they have been prescribed by their healthcare provider.

The United States has some of the highest costs for prescription drugs compared to the rest of the developed world. Millions of Americans are forced into debt because of it, and even more disturbing, are forced to turn to alternative sources for medication such as unregulated black-market products. This is unacceptable, as a state we need to be taking every step possible to ensuring everyone is able to afford their medications. This bill will mean a healthier Maryland, lowering the cost of healthcare for every Marylander, allowing the entire state to benefit.

With this in mind, the Baltimore Jewish Council urges a favorable report on Senate Bill 537.

The Baltimore Jewish Council, a coalition of central Maryland Jewish organizations and congregations, advocates at all levels of government, on a variety of social welfare, economic and religious concerns, to protect and promote the interests of The Associated Jewish Community Federation of Baltimore, its agencies and the Greater Baltimore Jewish community.

SB0537_FAV_MedChi-Pharmacists - Required Notificat

Uploaded by: Wise, Steve

Position: FAV



The Maryland State Medical Society

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www.medchi.org

TO: The Honorable Paul G. Pinsky, Chair
Members, Senate Education, Health and Environmental Affairs Committee
The Honorable Stephen S. Hershey, Jr.

FROM: Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman

DATE: February 16, 2021

RE: **SUPPORT** – Senate Bill 537 – *Pharmacists - Required Notification and Authorized Substitution - Lower-Cost Drug or Device Product*

The Maryland State Medical Society (MedChi), the largest physician organization in Maryland, **supports** Senate Bill 537.

This legislation allows a brand-named drug to be substituted for a generic drug by a pharmacist in the rare circumstance where the brand-named drug is less expensive to the consumer. This legislation is the cross-file of House Bill 429, and the history of the House legislation bears noting here. A different version of HB 429 was introduced in 2020 (HB 1119) and was opposed by MedChi because it would have allowed one brand-named drug to be substituted for another brand-named drug, something that physicians do not believe to be appropriate. However, the 2020 legislation was amended by the Health & Government Operations Committee to remove that provision and instead, simply allow a brand-named drug to be substituted for a generic drug if the former is more affordable for the consumer. The legislation passed the House but was not taken up by the Senate due to the shortened session, and there was no cross-filed bill last year.

Senate Bill 537 and its House cross-file reflect the amendments that were made in the House in 2020, and as such MedChi supports the legislation.

For more information call:
Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman
410-244-7000

SB537_Pharmacists Required Notification and Author

Uploaded by: Taylor, Allison

Position: FWA



Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc
2101 East Jefferson Street
Rockville, Maryland 20852

February 16, 2021

The Honorable Paul G. Pinsky
Senate Education, Health, and
Environmental Affairs Committee
2 West, Miller Senate Office Building
11 Bladen Street
Annapolis, Maryland 21401

RE: SB 537 – Support with Amendment

Dear Chair Pinsky and Members of the Committee:

Kaiser Permanente supports SB 537, “Pharmacists – Required Notification and Authorized Substitution – Lower Cost Brand Name Drug or Device Product,” and we request the Committee’s consideration of an amendment to be offered by the sponsor.

Kaiser Permanente is the largest private integrated health care delivery system in the United States, delivering health care to over 12 million members in eight states and the District of Columbia.¹ Kaiser Permanente of the Mid-Atlantic States, which operates in Maryland, provides and coordinates complete health care services for approximately 775,000 members. In Maryland, we deliver care to over 450,000 members.

This bill allows a pharmacist or designee to inform consumers of the availability of certain therapeutically equivalent brand name drugs and the cost difference between the therapeutically equivalent drug and a certain prescribed brand name drug. A pharmacist is authorized to substitute a therapeutically equivalent brand name drug or device product for certain prescribed drugs or devices. The pharmacist is required to provide notice to a patient and maintain a record if a therapeutically equivalent brand name drug or device is substituted for a drug device or product.

The use of therapeutic substitutions for generics and branded products has long been consistent with the strategy KP utilizes to ensure our patients receive clinically appropriate, affordable pharmaceutical care. While medications on our formulary are already selected based on efficacy, safety, therapeutic value, and cost effectiveness, we maintain processes that continually evaluate evidence-based prescribing. We consider whether patients are receiving prescriptions that maximize clinical outcomes and maintain low prices where possible. When a generic medication becomes available on the market, we quickly evaluate it for placement on our

¹ Kaiser Permanente comprises Kaiser Foundation Health Plan, Inc., the nation’s largest not-for-profit health plan, and its health plan subsidiaries outside California and Hawaii; the not-for-profit Kaiser Foundation Hospitals, which operates 39 hospitals and over 650 other clinical facilities; and the Permanente Medical Groups, self-governed physician group practices that exclusively contract with Kaiser Foundation Health Plan and its health plan subsidiaries to meet the health needs of Kaiser Permanente’s members.

formulary, and patients previously on the branded product may automatically be switched to the generic formulation, unless the prescriber deems the brand drug medically necessary.

Thank you for the opportunity to comment. Please feel free to contact Allison Taylor at Allison.W.Taylor@kp.org or (202) 924-7496 with questions.

Sincerely,

A handwritten signature in dark ink that reads "Allison Taylor". The script is cursive and fluid, with the first name and last name clearly distinguishable.

Allison Taylor
Director of Government Relations
Kaiser Foundation Health Plan of Mid-Atlantic States, Inc.

SB0537_UNF_OAG.pdf

Uploaded by: O'Connor, Patricia

Position: UNF

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February 16, 2021

To: The Honorable Paul G. Pinsky
Chair, Education, Health, and Environmental Affairs Committee

From: Office of the Attorney General's Health Education and Advocacy Unit

Re: Senate Bill 537 (Pharmacists - Required Notification and Authorized Substitution Lower-Cost Drug or Device Product): Oppose

The Office of the Attorney General's Health Education and Advocacy Unit (HEAU) opposes Senate Bill 537 which would allow pharmacist substitutions, without prescriber authorization, well beyond the scope of substitutions currently allowed without prescriber authorization. We oppose pharmacist substitutions without prescriber authorization like those the bill would allow because such substitutions lack reliable, authoritative support from U.S. Food and Drug Administration (FDA), would constitute the practice of medicine and could be financially driven.

We believe the current law strikes the right balance between patient protection and cost containment by allowing a pharmacist to substitute a lower cost, specifically defined generic for a brand drug if the prescriber did not order 'dispense as written'. The specifically defined generics are those "[r]ecognized in the [FDA]'s current list of approved drug or device products with therapeutic equivalence evaluations". Md. Code Ann. Health Occ. § 12-504(d)(2)(i). In other words, the FDA has determined the brand drug and the specifically defined generic are the same for the prescribed purpose.

The FDA has not determined the therapeutic equivalence of brand drugs that would be substituted for one another, without prescriber authorization, as proposed in the bill. We are not aware of any other reliable authority that could serve as an acceptable substitute for prescriber authorization.

We agree with the sponsor that increasing the pharmacist's required disclosures

pursuant to Md. Code Ann. Health Occ. § 12-504(b)(1) could benefit consumers, but must oppose the bill unless the proposed changes to subpart (d) of the statute are deleted. We are unable to propose alternative amendments adequate to mitigate our concerns, despite our agreement with the bill's apparent goals of reducing prescription drug costs and improving patient medication adherence.

For these reasons, we ask the Committee for an unfavorable report.

cc: Sponsor

7a - SB 537 - EHEA - Pharmacy - LOI .pdf

Uploaded by: Bennardi, Maryland Department of Health /Office of Governmen

Position: INFO



Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Dennis R. Schrader, Acting Secretary

MARYLAND BOARD OF PHARMACY
4201 Patterson Avenue
Baltimore, Maryland 21215-2299
Kevin M. Morgan, Board President

February 16, 2021

The Honorable Paul G. Pinsky, Chair
Senate Education, Health, and Environmental Affairs Committee
2 West
Miller Senate Office Building
Annapolis, Maryland 21401

RE: Senate Bill 0537 – Pharmacists – Required Notification and Authorized Substitution – Lower-Cost Drug or Device Product - Letter of Information

Dear Chair Pinsky and Committee Members:

The Maryland Board of Pharmacy (the “Board”) is submitting this letter of information for Senate Bill 0537 – Pharmacists – Required Notification and Authorized Substitution – Lower-Cost Drug or Device Product

This letter is to inform the Committee that retail pharmacies do not have access to all information contained in the consumer’s prescription drug benefit and formulary, and therefore could not effectively uphold new language proposed on page 3- line 17(copied below).

17 (2) IF A RETAIL CONSUMER IS USING PRESCRIPTION DRUG COVERAGE FOR THE PRESCRIPTION, THE DETERMINATION OF WHETHER THE CONSUMER WOULD BE CHARGED LESS FOR THE SUBSTITUTED DRUG OR DEVICE OR INTERCHANGEABLE BIOLOGICAL PRODUCT SHALL BE BASED ON THE CONSUMER’S PRESCRIPTION DRUG BENEFIT AND FORMULARY.

Though the board is broadly in favor of measures that lower health care costs and increase access, the bill as written is not something that retail pharmacists can implement nor do they have direct access to. Eligibility and copay information is determined by the Pharmacy Benefits Manager when a pharmacy submits a claim through a switch vendor who ensures the information being transmitted conforms to the National Council for Prescription Drug Programs standards.

I hope this information is useful. If you would like to discuss this further, please contact me at 410-764-4753 or deena.speights-napata@maryland.gov.

Sincerely,

DEENA SPEIGHTS-NAPATA

Deena Speights-Napata, M.A.
Executive Director
Maryland Board of Pharmacy

7b - SB 537 - EHEA - Physicians - LOI.pdf

Uploaded by: Bennardi, Maryland Department of Health /Office of Governmen

Position: INFO



Board of Physicians

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

2021 SESSION POSITION PAPER

BILL NO: SB 537 – Pharmacists – Required Notification and Authorized Substitution – Lower Cost Drug or Device Product
COMMITTEE: Education, Health, and Environmental Affairs
POSITION: Information

TITLE: Pharmacists – Required Notification and Authorized Substitution – Lower Cost Drug or Device Product

BILL ANALYSIS: Requires pharmacists to inform certain consumers of the availability of a therapeutically equivalent brand name drug that is the lowest cost alternative to the originally prescribed drug or device and the cost difference between the therapeutically equivalent drug or device and the prescribed drug.

POSITION AND RATIONALE:

The Maryland Board of Physicians (the “Board”) is respectfully submitting this letter of information for Senate Bill (SB) 537 – Pharmacists – Required Notification and Authorized Substitution – Lower Cost Drug or Device Product.

As written, SB 537 requires a pharmacist, or the pharmacist’s designee, to inform a retail consumer to the best of their knowledge of therapeutically equivalent drugs and devices that are lower-cost alternatives to the originally prescribed drug. However, this bill does not clarify whether its provisions also apply to other professions authorized to dispense drugs or devices under Title 12 of the Health Occupations Article.

As physicians and other health professions also have dispensing authority under §12-102(c)(2)(ii), the Board recommends expanding the language in SB 537 to incorporate these additional professions.

For more information, please contact Wynee Hawk, Manager, Policy and Legislation, Maryland Board of Physicians, 410-764-3786.

The opinion of the Board expressed in this document does not necessarily reflect that of the Maryland Department of Health or the Administration.