

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5063-02  
Bill No.: HB 1878  
Subject: Pharmacy; Drugs and Controlled Substances  
Type: Original  
Date: January 18, 2016

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Bill Summary: This proposal changes the laws regarding the substitution by a pharmacist of an interchangeable biological product for a prescribed product.

**FISCAL SUMMARY**

| <b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>  |            |                           |                            |
|--|------------|---------------------------|----------------------------|
| FUND AFFECTED  | FY 2017    | FY 2018                   | FY 2019                    |
| General Revenue                                      | \$0        | \$0 to \$5,527,903        | \$0 to \$12,161,386        |
| <b>Total Estimated Net Effect on General Revenue</b> | <b>\$0</b> | <b>\$0 to \$5,527,903</b> | <b>\$0 to \$12,161,386</b> |

| <b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>              |            |            |            |
|---|------------|------------|------------|
| FUND AFFECTED   | FY 2017    | FY 2018    | FY 2019    |
|   |            |            |            |
|   |            |            |            |
| <b>Total Estimated Net Effect on <u>Other</u> State Funds</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 6 pages.

| <b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>                  |            |            |            |
|---|------------|------------|------------|
| FUND AFFECTED   | FY 2017    | FY 2018    | FY 2019    |
| Federal*  | \$0        | \$0        | \$0        |
|   |            |            |            |
| <b>Total Estimated Net Effect on <u>All</u> Federal Funds</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

\* Savings and losses exceed \$20 million annually beginning in FY 2018 and net to \$0.

| <b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b> |          |          |          |
|---|----------|----------|----------|
| FUND AFFECTED   | FY 2017  | FY 2018  | FY 2019  |
|   |          |          |          |
|   |          |          |          |
| <b>Total Estimated Net Effect on FTE</b>                  | <b>0</b> | <b>0</b> | <b>0</b> |

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

| <b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b> |            |            |            |
|--|------------|------------|------------|
| FUND AFFECTED                              | FY 2017    | FY 2018    | FY 2019    |
| <b>Local Government</b>                    | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Social Services (DSS), MO HealthNet Division (MHD)** state this legislation amends Chapter 338 (Pharmacies and Pharmacists), RSMo, to authorize a pharmacist to substitute an interchangeable biological product if the product has been classified as an interchangeable biological product by the Food and Drug Administration (FDA) and the pharmacy informs the patient of the substitution.

Total MHD drug expenditures for FY 2015 were \$1,254,938,930. MHD assumes a 10% increase in pharmaceutical expenditures each year. MHD also assumes that 30% of total drug spending is related to biologic pharmaceuticals.

Non-biological generic pharmaceuticals are made up of small molecule products and therefore easier to produce, whereas the biological pharmaceuticals are made up of large complex molecules that are harder to make. Therefore, there are fewer manufacturers that produce biological pharmaceutical products. MHD assumes there will be no savings in FY 2017 as there are no biologic generics anticipated to become available in the near future.

MHD assumes a potential 3% savings in FY 2018 and an additional 3% increase each year until reaching the max of 25% savings. This represents a lower level of savings than is generally experienced with generic drugs in the non-biological sector. This assumption is primarily attributed to the nature of the biological pharmaceuticals and the related complexities trying to make bio-similar pharmaceutical products.

The total projected savings for FY 2018 would be \$0 to \$15,032,913, of which the Federal portion (63.228%) for FY 2018 would be \$9,505,011 and the State share (36.772%) would be \$5,527,903.

The total projected savings for FY 2019 would be \$0 to \$33,072,410, of which the Federal portion (63.228%) for FY 2019 would be \$20,911,023 and the State share (36.772%) would be \$12,161,386.

Long term projected annual savings are estimated to be \$0 to \$137,801,707 of which, the Federal portion (63.228%) would be \$87,129,263 and the State share (36.772%) would be \$50,672,444.

**Oversight** notes that MHD projected an increase in the potential savings of biologic drugs of 3% per year until the total savings reaches 25% of biologic drug costs. This 25% total savings would occur in FY 2026, however, MHD did not estimate the increase in the funds that would be spent

ASSUMPTION (continued)

on drugs each year past FY 2019 when their drug-spend estimate reached \$1.837 billion. Therefore, Oversight is presenting only the potential savings though FY 2019 and will range the savings between \$0 and the amount provided by MHD.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year’s legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials from the **Joint Committee on Administrative Rules (JCAR)** state the legislation is not anticipated to cause a fiscal impact to JCAR beyond its current appropriation.

Officials from the **Department of Health and Senior Services** and the **Department of Insurance, Financial Institutions and Professional Registration** each assume the proposal would not fiscally impact their respective agencies.

| <u>FISCAL IMPACT - State Government</u>                     | FY 2017<br>(10 Mo.) | FY 2018                              | FY 2019                               |
|---|---------------------|--------------------------------------|---------------------------------------|
| <b>GENERAL REVENUE FUND</b>                                 |                     |                                      |                                       |
| <u>Savings</u> - DSS (§338.056 & 338.085)                   |                     | \$0 to...                            | \$0 to...                             |
| Reduction in state share of MO                              |                     |                                      |                                       |
| HealthNet drug-spend  | <u>\$0</u>          | <u>\$5,527,903</u>                   | <u>\$12,161,386</u>                   |
| <b>ESTIMATED NET EFFECT ON THE<br/>GENERAL REVENUE FUND</b> | <b><u>\$0</u></b>   | <b><u>\$0 to<br/>\$5,527,903</u></b> | <b><u>\$0 to<br/>\$12,161,386</u></b> |

| <u>FISCAL IMPACT - State Government</u>                 | FY 2017<br>(10 Mo.) | FY 2018              | FY 2019               |
|---|---------------------|----------------------|-----------------------|
| <b>FEDERAL FUNDS</b>                                    |                     |                      |                       |
| <u>Savings</u> - DSS (§338.056 & 338.085)               |                     | \$0 to...            | \$0 to...             |
| Reduction in MO HealthNet drug-spend                    | \$0                 | \$9,505,011          | \$20,911,023          |
| <u>Loss</u> - DSS (§338.056 & 338.085)                  |                     |                      |                       |
| Reduction in reimbursements for MO HealthNet drug spend | <u>\$0</u>          | <u>(\$9,505,011)</u> | <u>(\$20,911,023)</u> |
| <b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>            | <b><u>\$0</u></b>   | <b><u>\$0</u></b>    | <b><u>\$0</u></b>     |
| <br>  |                     |                      |                       |
| <u>FISCAL IMPACT - Local Government</u>                 | FY 2017<br>(10 Mo.) | FY 2018              | FY 2019               |
|   | <b><u>\$0</u></b>   | <b><u>\$0</u></b>    | <b><u>\$0</u></b>     |

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

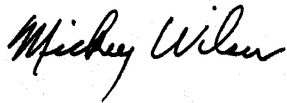
This bill changes the law regarding interchangeable biological products. The bill adds interchangeable biological products to the laws governing when generic substitutions may be made by a pharmacist when filling prescription orders. The bill permits a pharmacist to substitute an interchangeable biological product for a prescribed product only if specified requirements are met and requires the dispensing pharmacist to communicate the specifics of the substitution to the prescriber using specified means of communication. The bill requires the Board of Pharmacy within the Department of Insurance, Financial Institutions and Professional Registration to maintain a link to the current list of all interchangeable biological products on the board's website.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

Department of Health and Senior Services  
Department of Insurance, Financial Institutions and Professional Registration  
Department of Social Services -  
    MO HealthNet Division  
Joint Committee on Administrative Rules  
Office of Secretary of State



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January 18, 2016

Ross Strobe  
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