

SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)

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SENATE

Senate Bill No. 2631

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

AN ACT
FURTHER ENSURING THE USE OF THE GENERIC NAMES IN THE
MANUFACTURE, PRESCRIPTION AND DISTRIBUTION OF DRUGS AND
MEDICINES, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF
REPUBLIC ACT NUMBERED 6675, OTHERWISE KNOWN AS THE
"GENERIC ACT OF 1988" AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Right to health is a fundamental human right. Thus, Article II, Section 15 of the 1987 Constitution declares that, *"The State shall protect and promote the right to health of the people and instill health consciousness among them."* Corollary to this provision, Article XIII, Section 11 of the Constitution provides that, *"The State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available to all people at affordable cost. x x x"*

Thus, the enactment of Republic Act No. 6675, otherwise known as the "Generics Act of 1988" provided for the framework for ensuring adequate supply of drugs at the lowest cost in all government health agencies involved in purchasing, prescribing, dispensing and administering of drugs and medicines. Moreover, the law requires companies involved in the manufacturing, importation, re-packing and distribution of drugs and medicines to indicate prominently the generic name of the product. Drug outlets must likewise inform any buyer about any and all other drug products having the same generic name, with their corresponding prices. Consequently, consumers have the right to choose an equivalent but more affordable drug.

While the law provides administrative and penal sanctions, there are reports, however, that most doctors as well as drug companies who constantly violate it by prescribing brand name medicines because of the incentives that go with them. They are offered cash and other valuable consideration in exchange for prescribing the medicines sold by the pharmaceutical companies. Drugstores and other drug establishments reportedly fail to inform buyers of drugs having the same generic names with their corresponding prices. Thus, the Generic Law's noble purpose of providing Filipino consumers affordable, accessible, safe and efficacious drugs appears to be eroded.

In order to curb or minimize these practices, this bill seeks to provide stiffer penalties for any violation of the Generic Act.

To properly monitor and supervise the strict implementation of this Act, this bill proposes the creation of the "Generic Board". The Board shall, among others, investigate any violation of this Act and recommend prosecution in court, and promulgate rules and regulations as may be deemed necessary to carry out the provisions of this Act. To guarantee its implementation, the proposed bill requires the Board to submit annual report to the President and to Congress.

In view of the foregoing, early passage of this bill is earnestly sought.



JINGGOY EJERCITO ESTRADA
Senator

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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

1 **SECTION 1.** Section 9 of Republic Act No. 6675, otherwise known as the
2 "Generic Act of 1988", is hereby amended to read as follows:

3
4 "Section 9. [Rules and Regulations] IMPLEMENTATION. - The
5 implementation of the provisions of this Act shall be in accordance
6 with the rules and regulations to be promulgated by the Department
7 of Health. Rules and regulations with penal sanctions shall be
8 promulgated within one hundred eighty (180) days after the
9 approval of this Act, and shall take effect fifteen (15) days after
10 publication in the Official Gazette or in two (2) newspapers of
11 general circulation. TO REVIEW, MONITOR AND SUPERVISE
12 THE IMPLEMENTATION OF THIS ACT, THERE IS HEREBY
13 CREATED A GENERIC DRUGS BOARD, HERINAFTER
14 REFERRED TO AS THE "BOARD, WHICH SHALL BE
15 COMPOSED OF THE FOLLOWING:

- 16
17 A. THE SECRETARY OF HEALTH AS EX-OFFICIO
18 CHAIRMAN;
19 B. A REPRESENTATIVE FROM THE MEDICAL
20 PRACTITIONERS ASSOCIATION AS MEMBER;
21 C. A REPRESENTATIVE FROM THE CONSUMERS
22 SECTOR AS MEMBER;
23 D. A REPRESENTATIVE FROM THE DRUG
24 MANUFACTURERS AS MEMBER;
25 E. A REPRESENTATIVE FROM DRUG DISTRIBUTORS
26 AS MEMBER; PROVIDED, THAT MEMBERS
27 APPOINTED TO THE BOARD SHALL BE OF
28 RECOGNIZED STANDING IN THEIR RESPECTIVE
29 FIELD OR GROUP AND MUST POSSESS GOOD
30 MORAL CHARACTER."

1 **SEC. 2.** Section 10 of the same Act is hereby renumbered to Section 11
2 and the new provision of Section 10 shall read as follows:
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4 “SECTION 10. APPOINTMENT, POWERS AND DUTIES. - THE
5 MEMBERS OF THE BOARD SHALL BE APPOINTED BY THE
6 SECRETARY OF HEALTH FROM A LIST OF NOMINEES TO BE
7 SUBMITTED BY MEDICAL PRACTITIONERS, CONSUMERS,
8 DRUG MANUFACTURERS AND DRUG DISTRIBUTORS. THE
9 MEMBERS OF THE BOARD SHALL HOLD OFFICE FOR A TERM
10 OF TWO (2) YEARS; *PROVIDED*, THAT THE MEMBERS OF THE
11 BOARD FIRST APPOINTED SHALL HOLD OFFICE FOR THE
12 FOLLOWING TERMS: TWO (2) MEMBERS FOR TWO (2) YEARS
13 AND THE OTHER TWO (2) MEMBERS FOR ONE (1) YEAR.
14

15 “THE BOARD SHALL HAVE THE FOLLOWING POWERS AND
16 DUTIES:
17

- 18 A. INVESTIGATE ANY VIOLATIONS OF THE ACT AND
19 RECOMMEND PROSECUTION TO THE PROPER
20 AGENCIES;
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- 22 B. RECOMMEND SUSPENSION OR REVOCATION OF
23 LICENSES OF MEDICAL PRACTITIONERS AFTER PROPER
24 INVESTIGATION FOR VIOLATION OF THIS ACT;
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- 26 C. RECOMMEND SUSPENSION OR REVOCATION OF
27 LICENSE TO OPERATE ISSUED TO DRUG
28 ESTABLISHMENTS OR DRUG OUTLETS AFTER
29 INVESTIGATION;
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- 31 D. PERIODICALLY RECOMMEND TO CONGRESS MEASURES
32 UPDATING THE LAW TO CONFORM WITH THE
33 PREVAILING SITUATION; AND,
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- 35 E. PROMULGATE RULES AND REGULATIONS AS MAY BE
36 DEEMED NECESSARY TO CARRY OUT THE PROVISIONS
37 OF THIS ACT.”
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40 **SEC. 3.** Subsequent Sections shall be renumbered accordingly.
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43 **SEC. 4.** Section 12, now renumbered as Section 13, of the same Act is
44 hereby amended to read as follows:
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46 “Sec [12] 13. Penalty. -
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48 “A. Any person who shall violate Sec. 6 (a) or 6 (b) of R.A. 6675
49 shall suffer the penalty graduated hereunder, viz:
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51 (a) For the first conviction, he shall suffer the penalty of reprimand,
52 which shall be officially recorded in the appropriate books of the
53 Professional Regulatory Commission;
54

55 (b) For the second conviction, the penalty of fine in the amount of
56 not less than [Two Thousand Pesos (P2,000.00)] TEN THOUSAND
57 PESOS (P10,000.00) but not exceeding [Five Thousand Pesos

1 (P5,000.00) TWENTY THOUSAND PESOS (P20,000.00) at the
2 discretion of the court;

3
4 (c) For the third conviction, the penalty of fine in the amount of not
5 less than [Five Thousand Pesos (P5,000.00)] TWENTY
6 THOUSAND PESOS (P20,000.00) but not exceeding [Ten
7 Thousand Pesos (P10,000.00)] FIFTY THOUSAND PESOS
8 (P50,000.00) and suspension of his license to practice his
9 profession for [thirty (30) SIXTY (60) days at the discretion of the
10 court;

11
12 (d) For the fourth and subsequent convictions, the penalty of fine no
13 less than [Ten Thousand Pesos (P10,000.00)] FIFTY THOUSAND
14 PESOS (P50,000.00) and suspension of his license to practice his
15 profession for [One (1)] TWO years at the discretion of the court.

16
17 "B. Any judicial person who violates Section 6 (c), 6 (d), 7 and 8
18 shall suffer the penalty of a fine not less than [Five Thousand
19 Pesos (P5,000.00)] TWENTY THOUSAND PESOS (P20,000.00)
20 but not more than [Ten Thousand Pesos (P10,000.00)] FIFTY
21 THOUSAND PESOS (P50,000.00) and suspension or revocation of
22 license to operate such drug establishment or drug outlet at the
23 discretion of the court; *Provided*, That its officers directly
24 responsible for the violation shall suffer the penalty of fine and
25 suspension or revocation of license to practice the profession, if
26 applicable, and by imprisonment of not less than [six (6) months nor
27 more than] ONE (1) YEAR or both fine and imprisonment at the
28 discretion of the court; *Provided further*, That if the guilty party is an
29 alien, he shall ipso facto be deported after service of sentence
30 without need of further proceedings.

31
32 "C. The Secretary of Health shall have the authority to impose
33 administrative sanctions such as suspension or cancellation of
34 license to practice the profession to the Professional Regulatory
35 Commission as the case may be for the violation of this Act."
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38 **SEC. 5. Annual Report.** - The Board shall submit to the Office of the
39 President and to Congress an annual report detailing its activities towards the
40 implementation of this Act.

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43 **SEC. 6. Separability Clause.** - If any part of this Act is declared invalid,
44 the remainder or any provision hereof not affected thereby shall remain in full
45 force and effect.

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48 **SEC. 7. Repealing Clause.** - The provisions of any law, executive order,
49 presidential decree or other issuances inconsistent with this Act are hereby
50 repealed or modified accordingly.

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53 **SEC. 8. Effectivity.** - This Act shall take effect fifteen (15) days after its
54 approval.

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57 *Approved,*