THIRTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

SENATE

S.B. NO. 890

Introduced by Senator JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

Right to health is a fundamental human right. Thus, Article II, Section 15 of the 1987 Constitution declares: " 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: " The State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social sources available to all the people at affordable cost." Thus, the enactment of R.A. No. 6675, otherwise known as the "Generics Act of 1988", provided the framework for ensuring adequate supply of drugs at the lowest of generic name by all government health agencies in purchasing, prescribing, dispensing and administering of drugs and medicines. Moreover, the law requires companies involve in the manufacture, 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 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 establishment 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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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

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

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

Sec. 9. [Rules and Regulation] ***IMPLEMENTATION.*** – The implementation of the provisions of this Act shall be in accordance with the rules and regulations to be promulgated by the Department of Health. Rules and regulations with penal sanctions shall be promulgated within one hundred eighty (180) days after approval of this Act, and shall take effect fifteen (15) days after publication in the Official Gazette or in two (2) newspapers of general circulation. TO REVIEW, MONITOR AND SUPERVISE THE IMPLEMENTATION OF THIS ACT, THERE IS HEREBY CREATED A "GENERICS DRUG BOARD", HEREINAFTER REFERRED TO AS THE BOARD, WHICH SHALL B COMPOSED OF THE FOLLOWING:

(A) THE SECRETARY OF HEALTH, AS EX- OFFICIO CHAIRMAN;
(B) A REPRESENTATIVE FROM THE MEDICAL PRACTITIONERS ASSOCIATION, AS MEMBER;
(C) A REPRESENTATIVE FROM THE CONSUMER SECTOR, AS MEMBER
(D) A REPRESENTATIVE FROM THE DRUG MANUFACTURERS, AS MEMBER;
(E) A REPRESENTATIVE FROM DRUG DISTRIBUTORS, AS MEMBER, PROVIDED, THAT MEMBERS APPOINTED TO THE BOARD SHALL BE OF RECOGNIZED STANDING IN THEIR RESPECTIVE FIELD OR GROUP AND MUST POSSESS GOOD MORAL CHARACTER."

SECTION 2. Section 10 of the same Act is hereby renumbered to Section 11 and the new provisions of Section 10 shall read as follows:

SECTION 10. ***APPOINTMENT, POWERS AND DUTIES.*** - THE MEMBERS OF THE BOARD SHALL BE APPOINTED BY THE SECRETARY OF HEALTH FROM A LIST OF NOMINEES TO BE SUBMITTED BY MEDICAL PRACTITIONERS, CONSUMERS, DRUG MANUFACTURERS AND DRUG DISTRIBUTORS.

THE MEMBERS OF THE BOARD SHALL HOLD OFFICE FOR A TERM OF TWO (2) YEARS. PROVIDED, THAT THE MEMBERS OF THE BOARD FIRST APPOINTED SHALL HOLD OFFICE FOR THE FOLLOWING TERMS: TWO (2) MEMBERS FOR TWO (2) YEARS AND THE OTHER TWO (2) MEMBERS FOR ONE (1) YEAR."

THE BOARD SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

A) INVESTIGATE ANY VIOLATIONS OF THE ACT AND RECOMMEND PROSECUTION TO THE PROPER AGENCIES;
B) RECOMMEND SUSPENSION OR REVOCATION OF LICENSES OF MEDICAL PRACTITIONERS AFTER PROPER INVESTIGATION FOR VIOLATION OF THIS ACT;
C) RECOMMEND SUSPENSION OR REVOCATION OF LICENSE TO OPERATE ISSUED TO DRUG ESTABLISHMENTS OR DRUG OUTLETS AFTER INVESTIGATION.
D) PERIODICALLY RECOMMEND TO CONGRESS MEASURES UPDATING THE LAW TO CONFORM WITH THE PREVAILING SITUATION; AND
E) PROMULGATE RULES AND REGULATIONS AS MAY BE DEEMED NECESSARY TO CARRY OUT THE PROVISIONS OF THIS ACT;

SECTION 3. The subsequent Sections shall be renumbered accordingly.

SECTION 4. Section 12, now renumbered as Section 13, of the same Act is hereby to read as follows:

"Sec [912)] 13. Penalty. –

A) Any person who shall violate Sec. 6 (a) or 6 (b) of R.A. No. 6675 shall suffer the penalty graduated hereunder, viz:
   (a) For the first conviction, he shall suffer the Penalty of reprimand, which shall be officially recorded in the appropriate books of the Professional Regulatory Commission.
   (b) For the second conviction, the penalty of fine in the amount of not less than [Two Thousand pesos (P2, 000.00) TEN THOUSAND PESOS (P 10,000.00 but not exceeding [Five Thousand Pesos (P5, 000.00) TWENTY THOUSAND PESOS (20,000.00) at the discretion of the court.
   (c) For the third conviction, the penalty of fine in the amount of not less than [Five Thousand Pesos (P5, 000.00) **TWENTY THOUSAND PESOS** (P 20,000.00) but not exceeding [Ten thousand Pesos (P10, 000.00), FIFTY **THOUSAND PESOS** (P50, 000.00) and suspension of his license to practice his profession for [thirty (30) days] **SIXTY DAYS** at the discretion of the court.
   (d) For the fourth and subsequent convictions, the penalty of fine of not less than [Ten Thousand Pesos (P10, 000.00)] FIFTY THOUSAND PESOS (P50, 000.00) and suspension of his license to practice his profession for [One (1)] TWO YEARS at the discretion of he court.
B) Any judicial person who violates Section 6 [c], 6(d), 7 and 8 shall suffer the penalty of a fine not less than [Five Thousand Pesos (P5, 000.00)] TWENTY THOUSAND PESOS (P20, 000.00) not more than [ten Thousand Pesos (P10, 000.00) **FIFTY THOUSAND PESOS** (P50, 000.00) and suspension or revocation of license to operate such drug establishment or drug outlet at the discretion of the court. Provided, that its officers directly responsible for the violation shall suffer the penalty of fine and suspension or revocation of license to practice the profession, if applicable, and by imprisonment of not less than [six (6) months nor more than] ONE YEAR or both fine a imprisonment at the discretion of the court: and Provided, further, That if the guilty party is an alien, he shall ipso facto be deported after service of sentence without need of further proceedings.

C) The Secretary of health shall have the authority to impose administrative sanctions such as suspension or cancellation of license to practice the profession to the Profession Regulatory Commission as the case maybe for the violation of this.

SECTION 5. ***Annual Report.*** The Board shall submit to the Office of the President and to Congress an annual report detailing its activities towards the implementation of this Act.

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

SECTION 7. ***Repealing Clause.*** The provisions of any law, executive order, presidential decree or other issuance's inconsistent with this Act are hereby repealed or modified accordingly.

SECTION 8. ***Effectivity.*** This Act shall take effect fifteen (15) days after its approval.

Approved,