

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

7 JUL -2 1988

SENATE

RECEIVED BY: _____

Senate Bill No. 435

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

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." 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

FOURTEENTH CONGRESS OF THE REPUBLIC)
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7 JUL -2 P205

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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 amended to read as follows:

"Section 9. [Rules and Regulations] 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 the 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 "GENERIC DRUGS BOARD", HEREINAFTER REFERRED TO AS THE "BOARD", WHICH SHALL BE 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 CONSUMERS' 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.”

SEC 2. Section 10 of the same Act is hereby renumbered to Section 11 and the new provision 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.”

SEC 3. Subsequent Sections shall be renumbered accordingly.

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

“Sec [12] 13. Penalty. –

- A) Any person who shall violate Sec. 6 (a) or 6 (b) of R.A. 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 (P10,000.00)** but not exceeding [Five Thousand Pesos (P5,000.00)] **TWENTY THOUSAND PESOS (P20,000.00)** 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 (P20,000.00)** 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)] **SIXTY (60)** days at the discretion of the court;
 - (d) For the fourth and subsequent convictions, the penalty of fine no 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 the 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)** but 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 and imprisonment at the discretion of the court; *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 Professional Regulatory

Commission as the case may be for the violation
of this Act.

SEC 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.

SEC 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.

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provisions of any law, executive order, presidential decree or other issuances inconsistent with this Act are hereby repealed or modified accordingly.

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

Approved,