

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

FLOOR AMENDMENT

No. _____

COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 4, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Garvin

Garvin-DC-FS-Req#1938
3/9/2021 4:55 PM

(Floor Amendments Only) Date and Time Filed: _____

Untimely

Amendment Cycle Extended

Secondary Amendment

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 FLOOR SUBSTITUTE
4 FOR

5 SENATE BILL NO. 4

By: Garvin of the Senate

and

Marti of the House

7
8
9 FLOOR SUBSTITUTE

10 An Act relating to pharmacy; providing definitions;
11 allowing a pharmacist to substitute interchangeable
12 product for certain prescribed product under
13 specified conditions; requiring a pharmacist or
14 designee to make entry of provided products into an
15 electronic records system; specifying method of
16 certain communication; providing for notice to
17 prescriber; providing exemption for certain
18 communication; excluding dispensing pharmacist or
19 prescriber from certain requirement and certain
20 penalties; directing the State Board of Pharmacy to
21 maintain certain link on its website; providing
22 certain construction; providing for codification; and
23 providing an effective date.

24
BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 355.4 of Title 59, unless there
is created a duplication in numbering, reads as follows:

A. For the purposes of this section:

1 1. "Biological product" has the same meaning given to that term
2 in 42 U.S.C., Section 262; and

3 2. "Interchangeable biological product" means a biological
4 product that the U.S. Food and Drug Administration (FDA):

5 a. has licensed, and determined to meet the standards for
6 interchangeability pursuant to 42 U.S.C., Section
7 262(k)(4), or

8 b. has determined is therapeutically equivalent as set
9 forth in the latest edition of or supplement to the
10 United States Food and Drug Administration's (FDA)
11 Approved Drug Products with Therapeutic Equivalence
12 Evaluations.

13 B. A pharmacist may substitute an interchangeable biological
14 product for a prescribed biological product if:

15 1. The substituted product has been determined by FDA to be
16 interchangeable, as defined in subsection A of this section, with
17 the prescribed biological product;

18 2. The prescribing health care provider does not express a
19 preference against substitution in writing, verbally or
20 electronically; and

21 3. The pharmacy informs the patient of the substitution.

22 C. The dispensing pharmacist or the pharmacist's designee shall
23 make an entry into an electronic records system of the specific
24 product provided to the patient including the name of the product

1 and the manufacturer. The communication shall be conveyed by making
2 an entry through:

- 3 1. An interoperable electronic medical records system;
- 4 2. An electronic prescribing technology;
- 5 3. A pharmacy benefit management system; or
- 6 4. A pharmacy record.

7 D. Entry into an electronic records system as described in
8 subsection C of this section is presumed to provide notice to the
9 prescriber. If no electronic records system is in use by the
10 pharmacy, the pharmacist shall communicate the biological product
11 dispensed to the prescriber using facsimile, telephone, electronic
12 transmission or other prevailing means, except that communication
13 shall not be required where:

- 14 1. There is no FDA-approved interchangeable biological product
15 for the product prescribed; or
- 16 2. A refill prescription is not changed from the product
17 dispensed on the prior filling of the prescription.

18 E. The dispensing pharmacist or a prescriber shall not be:

- 19 1. Required to show proof that the prescriber has access to the
20 record in any type of payment audit conducted by a payer or pharmacy
21 benefit manager; or
- 22 2. Subject to disciplinary action or civil penalties for
23 failure to ensure that the record is accessible or for failure to
24 access the record.

1 F. The State Board of Pharmacy shall maintain a link on its
2 Internet website to the current list of all biological products
3 determined by the FDA to be interchangeable with a specific
4 biological product.

5 G. Nothing in this section shall preclude existing approved
6 brand and generic substitutions.

7 SECTION 2. This act shall become effective November 1, 2021.

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9 58-1-1938 DC 3/9/2021 4:55:22 PM

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