

[First Reprint]

SENATE, No. 4601

STATE OF NEW JERSEY
222nd LEGISLATURE

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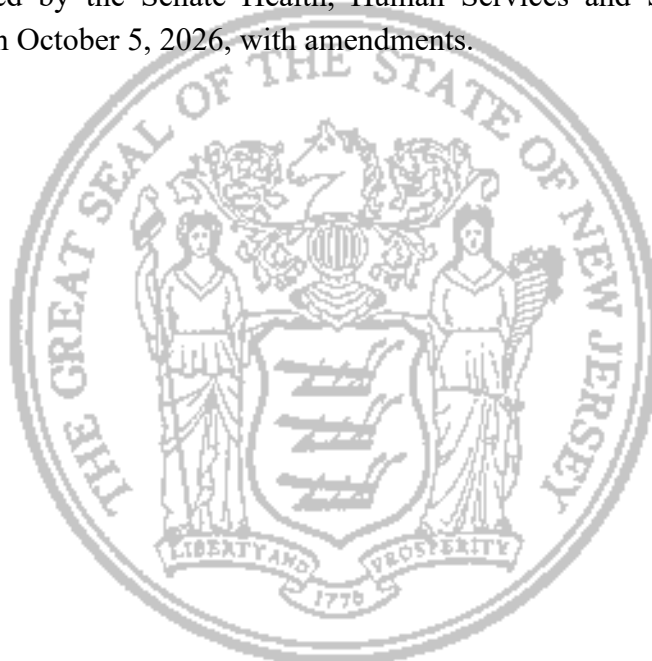
Senator Mukherji

SYNOPSIS

Requires pharmacist or pharmacist's designee to notify consumer of substituted drug or biological product.

CURRENT VERSION OF TEXT

As reported by the Senate Health, Human Services and Senior Citizens Committee on October 5, 2026, with amendments.



(Sponsorship Updated As Of: 10/05/2026)

1 AN ACT concerning notification of drug or biological product
 2 substitutions and amending P.L.1977, c.240 and P.L.2015, c.130.

3
 4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 5 *of New Jersey:*

6
 7 1. Section 8 of P.L.1977, c.240 (C.24:6E-7) is amended to read
 8 as follows:

9 8. Every prescription blank shall be imprinted with the words,
 10 "substitution permissible" and "do not substitute" and shall contain
 11 space for the physician's or other authorized prescriber's initials
 12 next to the chosen option. Notwithstanding any other law, unless
 13 the physician or other authorized prescriber explicitly states that
 14 there shall be no substitution when transmitting an oral prescription
 15 or, in the case of a written prescription, indicates that there shall be
 16 no substitution by initialing the prescription blank next to "do not
 17 substitute," a different brand name or nonbrand name drug product
 18 of the same established name shall be dispensed by a pharmacist if
 19 such different brand name or nonbrand name drug product shall
 20 reflect a lower cost to the consumer and is contained in the latest
 21 list of interchangeable drug products published by the council;
 22 provided, however, where the prescriber indicates "substitution
 23 permissible, and requests the pharmacist to notify **[him]** the
 24 prescriber of the substitution," the pharmacist shall transmit notice,
 25 either orally or by written notice to be mailed no later than the end
 26 of the business day, to the prescriber specifying the drug product
 27 actually dispensed and the name of the manufacturer thereof.
 28 However, no drug interchange shall be made unless a savings to the
 29 consumer results, and the pharmacist passes such savings on to the
 30 consumer in full by charging no more than the regular and
 31 customary retail price for the drug to be substituted. For
 32 prescriptions filled other than by mail, the consumer may, if a
 33 substitution is indicated and prior to having **[his]** the prescription
 34 filled, request the pharmacist or **[his]** the pharmacist's agent to
 35 inform **[him]** the consumer of the price savings that would result
 36 from substitution. If the consumer is not satisfied with said price
 37 savings **[he]** the consumer may, upon request, be dispensed the
 38 drug product prescribed by the physician. The pharmacist shall
 39 make a notation of such request upon the prescription blank.

40 If a pharmacist dispenses a different brand name or non-brand
 41 name drug product of the same established name, the pharmacist or
 42 the pharmacist's agent shall notify the consumer of the substitution
 43 at the time the drug product is dispensed¹, except that the
 44 pharmacist or the pharmacist's agent shall only be required to notify
 45 a consumer the first time the pharmacist dispenses the substituted

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted October 5, 2026.

1 drug product. If a pharmacist further substitutes a drug product
2 previously substituted by the pharmacist, the pharmacist or the
3 pharmacist's agent shall notify the consumer the first time the new
4 substitution is dispensed¹.

5 (cf: P.L.1977, c.240, s.8)

6
7 2. Section 3 of P.L.2015, c.130 (C.24:6K-3) is amended to read
8 as follows:

9 3. a. A pharmacist may substitute a biological product for a
10 prescribed biological product, provided that the following
11 conditions are met:

12 (1) the authorized prescriber has not indicated that there shall be
13 no substitution as set forth in section 8 of P.L.1977, c.240 (C.24:6E-
14 7); and

15 (2) the biological product to be substituted has been determined
16 by the federal Food and Drug Administration to be:

17 (a) interchangeable with the prescribed biological product; or

18 (b) therapeutically equivalent to the prescribed biological
19 product.

20 b. If a pharmacist dispenses a biological product, the
21 pharmacist or the pharmacist's designee shall, within five business
22 days following the dispensing of the biological product,
23 communicate to the prescriber the specific product provided to the
24 patient, including the name of the product and the manufacturer.
25 No communication shall be required under this subsection when:

26 (1) there is no biological product that has been determined by
27 the federal Food and Drug Administration to be either:

28 (a) interchangeable with the product prescribed; or

29 (b) therapeutically equivalent to the product prescribed; or

30 (2) a refill prescription is not changed from the product
31 dispensed on the prior filling of the prescription.

32 c. The communication requirement under subsection b. of this
33 section may be satisfied by making an entry in an interoperable
34 electronic medical records system or an electronic pharmacy record
35 that can be accessed electronically by the prescriber, or through the
36 use of another electronic prescribing technology that can be
37 accessed electronically by the prescriber. Entry into an electronic
38 records system as described in this paragraph is presumed to
39 provide notice to the prescriber. Otherwise, the communication
40 may be conveyed using other electronic means, if available, or by
41 facsimile.

42 d. **【A】** If a pharmacist **【who】** substitutes a biological product
43 in compliance with this section:

44 (1) the pharmacist shall record, on the prescription label and
45 record of dispensing, the product name and manufacturer of the
46 biological product dispensed, followed by the words: "Substituted
47 for" and the name of the biological product for which the
48 prescription was written; and

- 1 (2) the pharmacist, or the pharmacist's designee, shall notify the
2 patient of the substitution at the time the biological product is
3 dispensed¹, except that the pharmacist or the pharmacist's designee
4 shall only be required to notify a consumer the first time the
5 pharmacist dispenses the substituted biological product. If a
6 pharmacist further substitutes a biological product previously
7 substituted by the pharmacist, the pharmacist or the pharmacist's
8 designee shall notify the consumer the first time the new
9 substitution is dispensed¹.
- 10 e. The same recordkeeping requirements as apply to the
11 dispensing of drugs shall apply to the dispensing of biological
12 products.
- 13 f. A pharmacist who substitutes a biological product in
14 compliance with this section shall incur no greater liability in filling
15 the prescription by dispensing the biological product than would be
16 incurred in filling the prescription by dispensing the prescribed
17 biological product.
- 18 (cf: P.L.2015, c.130, s.3)
- 19
- 20 3. This act shall take effect immediately.