

MINUTES OF THE MEETING

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

March 29, 1977

The thirty-fourth meeting of the Senate Public Health, Welfare and Safety Committee was called to order in Room 405 of the State Capitol Building by Chairman Stan Stephens on Tuesday, March 28, at approximately 11:00 A.M.

ROLL CALL: All members of the Committee were present.

CONSIDERATION OF HOUSE BILL 455: Chairman Stephens turned the meeting over to Representative Meloy, who introduced his bill as one which would correct a deficiency which arose when the Uniform Probate Code was passed. The bill will make a technical change in that, now, the Attorney General does not receive notice of alien heirs in escheated estates - if bill passed, notice would be demanded of the personal representatives or special administrators. Said notice would be given the Attorney General within 30 days of completing and filing the inventory and statement of value. The notice would include the names and addresses of the alien heirs, devisees, legatees, or beneficiaries in the estate; the share or proportionate share of each of the alien heirs; the stated value of the entire estate.

The only witness at this hearing was Mike McGraff, representing the Justice Department, who said the bill has a very limited application and it only applies in the statute that is referred to on line 14, 91A-2-111 that states that no person is disqualified on the basis of being an alien heir unless that country is a country in which the United States does not have an existing reciprocity agreement with (that applies to approximately 4 to 5 countries). That's the only application that this bill has. Escheated estates is where someone dies without heirs that estate reverts to the State of Montana by virtue of escheat.

There were two questions: (1) how did this bill get into Public Health! and (2) why is the effective date of this bill upon passage rather than the usual date for bills (just in case there would be any escheated estates between now and July 1st).

CONSIDERATION OF HOUSE BILL 286: With the hearing room filled to capacity, Chairman Stephens opened the hearing on this bill and turned the meeting over to Representative Palmer. The Representative's opening testimony on his bill was lengthy- the bill, known by its short title as "The Montana Drug Product Selection Act" would allow the pharmacists to substitute a chemically identical drug product in the place of a more expensive name brand item. (See Exhibits "A", "B", and "C".)

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Witnesses were as follows:

Rod Gudgel, Montana State Pharmaceutical Association  
Jim Murray, Montana State AFL-CIO  
Evelyn Johnson, Missoula Sr. Citizens Center  
Oliver Dahl, Executive Director, Montana Senior Citizens Assn.  
Mrs. W. L. Thompson, Senior Center  
Steve Gunderson, representing Montana Farmers' Union  
Representative Porter, Billings  
Norman Howell  
Ed Doig, registered pharmacist, Livingston  
L. T. Loendorf, Montana Medical Association  
Brad Stoick, pharmacy and Stoick Drug  
Gerald Neely, Montana Medical Association  
Dr. Agnew, Billings

Rod Gudgel, testified first, saying his Association conducted a mail ballot on the question of repeal of the Anti-Substitution laws prior to the session, with the outcome being 105 to 45 in favor. Sections 10 and 11 of this bill deal with repeal of the anti-substitution laws and of course, our support in terms of the Association's position. However, some other sections I would like to point out to you are inappropriate: on page 3, lines 10 and 11; House amendment that the pharmacist, when selecting a drug for substitution make a determination that the drug is therapeutically bioequivalent and bioavailable. This is a decision that there are virtually no practicing pharmacists who are in a position to make. The effect of this, then, is that there would be no substitutions (but even a physician would find it impossible to make this decision). The information required for such decision-making is simply not available. For this reason, Gudgel made an amendment to the sections where "therapeutically" appears in the bill (see proposed amendments on Montana State Pharmaceutical Association hand-out, Exhibit "D").

Mr. Gudgel drew the penalty provisions in the bill to the Committee's attention (page 12, Section 12) and said that the possibility exists here that there would be actual fines imposed by the Board of Pharmacists on the finding of a violation. This is a departure from the usual kind of penalty provision except, perhaps in OSHA, and some of these now are being contested in courts. Also, where should the fine money collected go - to the general fund or to a special ear-marked revenue account of the Board of Pharmacy, or where? If the bill is acted upon, some action is needed in this area.

Jim Murray testified that his organization went on record last August in unanimous support of Resolution 59:

"Be it resolved that the state AFL-CIO strongly supports and encourages allowing the pharmacists, because of their schooling, 5 years, to have the flexibility to dispense, if one exists, a less expensive but chemically identical drug, as opposed to an expensive name brand."

The members of the organization recognize that the drug industry is dominated by a hand-full of giant firms. We feel

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the situation is not in the best interests of the consuming public because of the adverse effect this corporate control has on drug pricing. The elderly has a large burden in drug costs. Therefore, they feel HB286 is a step in the right direction in providing needed competition in drug pricing.

Evelyn Johnson testified that this bill does not require the pharmacist to substitute, it only provides they can. HB286 would provide a much needed savings for senior citizens and other low income persons. Mrs. Johnson also read a letter from Walter D. Taylor, Executive Director of Missoula Senior Citizens Center (see Exhibits "E" and "F").

Oliver Dahl testified next in support of the bill, saying senior citizens support passage of HB286 because of the spiraling costs of medical care which severely affects the elderly person's ability to pay for life's necessities. Forty-one percent of Montana's elderly are below the poverty qualifications guidelines. (See Exhibit "G".)

Mrs. Willard Thompson read a statement concerning an elderly couple who cannot buy food because of high medicine costs (See Exhibit "H").

Steve Gunderson read from his group's policy and program which was adopted at their State convention last Fall:

"The Montana State Farmers Union strongly endorses the changing of the current anti-substitution law to allow the pharmacists to substitute a chemically equivalent drug."

End of proponents.

Representative Howard Porter, one of two main opponents, testified as an "oldster" and also as one who is on the House Subcommittee on Aging. The Representative said that the bill duplicates what we can do right now. All the oldster has to do is say to the pharmacist, "Please, would you call my doctor and see if there is a drug that will do the same thing for me but cheaper?" - this happens all the time. We are going to a great deal of trouble to legislate something that exists. It is so easy.

The National Council of Aging hired the Harris Poll for some research: findings - 51% of the general public think people over 65 are in poor health but only 21% of the people over 65 think they are in poor health. We are getting overly dramatic as far as the need is concerned - 44% of the general public think that people 65 and over do not have adequate medical attention but those over 65, only 10% think they have inadequate attention.

Pricing - the price of drugs will come down by this bill passing? It didn't come down in Michigan, nor in Saska. In the Canadian province, it actually went up because of the rising insurance rates.

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Mr. Porter called the Committee's attention to page 6, Subsection 2, line 8 where it refers to the doctor's obligation, or lack of it, once the pharmacist substitutes, and added the comment of someone in the House when this bill was there ('this is the attorneys' Relief Act'). Based upon the price of the drugs in Michigan experience, and any other state that has a similar law, the price does not come down and likelihood price will go up. In 1967-75, pharmaceuticals went up 9.4%, while other things went up 75%. Only 7% of the health care dollars is spent on prescription medicine, against 12% in 1960. Here's one place where private enterprise has done a tremendous job, they have held the line on inflation. If something of this kind is done (passage of bill), who is going to do the research and investigation, who is going to create the market for new drugs that is going to keep people alive longer? Are we going to get penny-pinching when it comes to our health? The doctor knows you and he will take into consideration your physical make-up and then make his decision regarding your medicine.

Bioequivalent, etc., is complicated. Formularic tables etc. are created in hospitals where you have doctors, pharmacists that go through this meticulously - not on the whim of saving a few cents here or there. This work is precisely done.

Pharmaceutical houses don't make lots of money. Years ago, Mr. Porter said, he invested in their stock, and never made any money. They plow their money back into research to keep us alive. All the patient has to do is say, "Please call my doctor and see if there's anything less expensive".

Norman Howell testified briefly concerning his beliefs about doctors and drugs, saying the doctor knows you and what your body will tolerate, plus the fact he thinks not all drugs are manufactured the same. His doctor says, "I have had very good luck with this medicine" meaning he knows that brand and would not hesitate to prescribe it.

Ed Doig was the other main witness for the opposing side. He introduced himself as a member of: Park County Pharmaceutical Association, Board of Directors of the Montana State Pharmaceutical Association, American Pharmacists Association, Medicaid-Medicare Advisory Council of the State.

Doig brought several letters from other pharmacists around the State with him, to be submitted to record (see Exhibits

His position on the bill was "complete opposition". Doig said many pharmacists in Montana may be in favor of drug substitution to some degree but he has not talked to one single pharmacist who is in favor of this bill. (see complete testimony in Exhibit "I".) He was very uncomplimentary to Mr. Gudgel.

L. T. Loendorf testified in a rather neutral manner and signed the testifying sheet as "oppose unless amended". He said the most important thing is that the patient gets a drug that

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helps him. If you substitute a cheaper drug and that drug does not help him, he has to go back again and buy another drug. The MMA took no position on the bill in the House, but did offer some amendments, and those amendments were that the drug, as well as being therapeutically equivalent, be "bioequivalent". Incidentally, the language adopted the pharmacists offered and MMA supported. Today, Loendorf said, he is surprised the proposed amendments by pharmacists would remove that same language which is the only thing that assures the patient get an equivalent drug, and then substitute "generically equivalent" which is not defined anywhere in the bill.

Substitution involves some risk - so if its made, there should be a corresponding benefit to the people who receive that substituted drug. Unless this bill insures that and there are some savings going to be passed on, it seems to Loendorf it is not worthy of passage.

The MMA would propose some changes if the Committee passes this bill which would insure the above. The patient, also, should be notified of the amount of the savings, as well as the fact that he does not have to accept the substitute. (Exhibit "K".)

Page 3, Section 3, Line 6 pointed out to Committee for comment.

Page 4, line 19: Why should a substitution be made for an "equally" priced drug? There is no benefit. Strike.

Typed amendments regarding prescription forms to be added to bill and also to amend page 4, line 4: patient should be notified of the savings (that was deleted out in the House).

Page 4, line 21-25: the pharmacist must pass on the full amount of the savings to the patient - Loendorf said this is one of the main parts of the bill and must be put back in.

Page 5, Section 6 regarding pharmacist keeping a record of drug substitutions. Their amendment addresses this. This is important because if a patient has an adverse reaction, the doctor should know what the pharmacist substituted.

Because of the time factor, Chairman Stephens cut the testimony.

Brad Stoick identified himself to the Committee, then submitted to record his written testimony (see Exhibit "J") and also submitted letters from pharmacists around Missoula area.

Gerald Neely said that, in regard to the amendments proposed by the Montana State Pharmaceutical Association today, in substituting the "generically equivalent" words, if that amendment were adopted, it would merely mean that substitution could be allowed for those drugs which were chemically or established name-wise the same. Thereby, it would allow drug products to be substituted that were not generally equivalent, that were not bioequivalent, and would also allow substitution of drugs that were not therapeutically equivalent. If substitution

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is authorized, it is very critical that the same drug, with the same therapeutic effects on the disease, the same chemical equivalency, and also the same rate of absorption.

So, if the Montana State Pharmaceutical Association amendments are adopted, it will only mean that they have the same brand name or the same chemical name and not in any way, shape or form the total equivalency of those drugs.

Totally out of time for testimony, all other testimony in written form was given to Committee Secretary Allen to submit to record.

Closing remarks by Representative Palmer covered some of the preceding opposing testimony, in that he thought it was a "smoke screen". Mr. Palmer made the point, the general public does not know that equivalent drugs exist. Why don't they know - because, as he said, of the ability the big manufacturers have of convincing us that the brand names are the best. Mr. Palmer gave some examples of price differences between generic and brand-named drugs. He said we should provide this mechanism for savings to consumer. The issue is: Do you believe the pharmacists in this state have the ability to be able to substitute a chemically identical drug that is going to be a potential for savings? The pharmacists have the ability, said Representative Palmer, because he talked with the Dean of the School of Pharmacists, as well as several professors who attest to the school giving the pharmacists that ability.

Questions:

1) Senator Roberts asked what would happen if we simply deleted that part of our law that is the anti-substitution portion - Representative Palmer said it would give a free hand to the pharmacists to substitute or not. The sections beyond the substitution part is consumer-oriented, for the protection of the consumer and to educate the public. What needs to be done, Palmer said, is repeal the substitution section but to provide safeguards for the consumers.

2) When Senator Roberts asked Mr. Doig if he would support that approach, the answer was absolutely negative and he added that the pharmacists are already required by the State Board of Pharmacy to have a sign saying a generic drug is available and all they have to do is contact their physician.

(To which Representative Palmer responded that he petitioned the Board last year to do this as a part of educating the public. However, some pharmacists were known to say in some instances, "we don't want to bother the doctor". So, there is no opportunity to provide the consumer with that savings.

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The pharmacist should be a part of the health service field. He has the knowledge. It is a working together.)

3) When Senator Stephens questioned Mr. Gudgel about the term, "generically equivalent" and its definition, Mr. Gudgel referred to the testimony of Mr. Neely and added that he checked this phrase out with the American Pharmaceutical Association first and it was confirmed - he also called the School of Pharmacy (Missoula) for confirmation, that it covered the kind of substitution required. The only reason for a modification is that it simply is impossible to meet the terminology that is there at the present time.

4) Senator Olson asked Representative Palmer if he knew of any other states that introduced this legislation in the past year - Rep. Palmer said Colorado did, and it passed. It was mentioned, also, that some 20 states currently have a similar law. However, Rep. Porter said our neighboring states voted down similar bills.

5) Senator Norman questioned Rod Gudgel concerning the amendments he proposed by asking exactly what amendments would do - Gudgel said it would make it possible for a pharmacist to use his professional judgment and make a substitution.

The Senator asked if it would make any difference whether it were bioequivalent or bioavailable - Gudgel said, no, just so it were generically equivalent. To which the Senator commented that that would just about take care of the bill - Mr. Gudgel said it would then make it workable for the pharmacist and the Senator responded, "but what about the patient?"

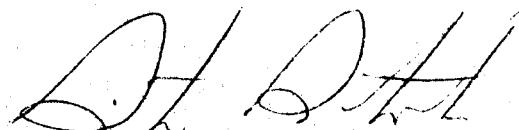
Other questions established that the sponsor is not terribly concerned that the bill's section on pharmacists passing savings on to consumers has been stricken because he feels they would morally and ethically do this anyway. If not, he stated the problem could be addressed next session.

Also, the prescriber places a high priority on pharmacists' calls to him (doctor) and a substitution question by phone usually is answered quickly (no delay or put-off, as earlier suggested). Dr. Agnew from Billings testified to this.

If the pharmacists do not now have the ability to substitute, the sponsor said, we better look into the pharmacy schools.

There are about 100 large companies: the greatest percentage any one company has in the market, is 7%.

That concluded the hearing on this bill, with NO ACTION BEING TAKEN AT THIS TIME on HB286.



STAN STEPHENS, Chairman

MARCH 29, 1977

## ROLL CALL

## **PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE**

45th LEGISLATIVE SESSION - 1977

DATE: 3/29/77

March 29, 1977

TESTIFYING

NAME:	REPRESENTING:	ON BILL #	SUPPORT, OPPOSE OR AMEND?
(Please leave any prepared statement with Secretary)			
BRAD STOCK	PHARMACY + STOCK DRUG	HB 286	OPPOSE
Ed Doig, Reg Pharmacist - Livingston DRUG		HB 286	OPPOSE
Byron E Dodd RPh. Smith Drug		HB 286	OPPOSE
Jim Murray Mart. State AFL-CIO		HB 286	Support
Ed Steiner	Gibson Pharmacy & Spf	HB 286	OPPOSE
Bob Gudgeon	MSPA	HB 286	Support & Amend
James H. Newman	Missoula	HB 286	OPPOSE
Mike McGrath	ADTV 651	HB 455	SUPPORT
W. J. Thompson	Senior Center	HB 286	Support
John J. Thompson	Missoula St. City	HB 286	Support
Loendorf	MMA	286	OPPOSE unless amend
Oliver M. Dahl	ELMCO	286	Support
Mr. Agnew	Billings		OPPOSE w/ Amend.
Gerald Neely	Mum		
Steve Graderon	MFU (Montana Farmers Union)	286	Support
Rep. Porter			

DATE MARCH 29, 1977  
 COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY <sup>House</sup> BILL NO. 286

VISITOR'S REGISTER

NAME	REPRESENTING	Check One Support	Oppose
May Ann Rotch	Cowallis High School		
Shirley Sutton	Cowallis High School		
Karen Fahey	Lumagets Int.	✓	
Jodd Koepf	Observing		
Dennis Gort	ST. Peter's Hospital Helena Int.	✓	
Patty C. McFaygan	None	✓	
Kelli Porter	None	✓	
Deb Steiner	Gibson Pharmacy	✓	
Russ Moryer	Registered Pharmacist #1818	✓	
Rod Gindzel	MSPA	—	—
Loesendorf	MMMA		
Quinn Hill DeLoach	MMMA	✓	
John Hammond	self	✓	
Henry E. Ryan	Senior Citizens Mission	✓	
G. Robert Zins	mt. Medical Assoc.	✓	
Colorado Women MD	mt. Med. Assoc	✓	
Dr. Birnbaum		✓	
Henry S. Walton	Montana State Pharmaceutical Assoc.	✓	
James T. Zender	mt. Med. Assoc	✓	AMEND L
Gerard Neely	Mont. Med. Assoc.	✓	AMEND L

E X H I B I T "A"

March 29, 1977

Mr. Chairman:

My name is Bob Palmer, and I am the chief sponsor of House Bill 286, to be known as "The MONTANA Drug Product Selection Act". House Bill 286 will allow for pharmacists to substitute a chemically-identical drug product in place of a more expensive name-brand item.

Currently, expenditures for prescription medication by the elderly is often their greatest cost of health care. More than one out of every four persons over the age of 65 is in the government classification of poverty. Far too often, illness itself is the cause of poverty for an older American. High prices for prescription drugs are part of the problem.

For those who don't know, antisubstitution began because after World War II., the success of the U. S. drug industry had spawned a proliferation of duplicate prescription drug products made by different manufacturers, but embodying the same drug entity. However, the high prices at which drugs were being sold produced a rash of counterfeit prescription drug products on the U. S. market. The drug industry fought the counterfeiting problem, in part, by mounting its successful campaign to bring the antisubstitution laws into being. Pharmacists supported the campaign.

Times have changed, and proper regulations and safeguards have been established. The present antisubstitution laws create an environment which places undue emphasis on the trade names assigned to drug products; this, in turn, has a substantial anticompetitive effect in the drug marketing and dispensing area. Through the use of easily-remembered and catchy trade names, combined with heavy promotional activities to a relatively small population of physicians,

E X H I B I T "B"

DRUG SUBSTITUTION

Introduction: Older Americans have been forced to pay unreasonably high prices for prescription drugs because of the anti-competitive nature of the pharmaceutical drug industry which has been created and maintained under certain state laws and regulations.

Reform legislation must be passed to eliminate this anti-competitive nature of the pharmaceutical industry and thereby enable the older Americans to buy prescription drugs at a reasonable price.

Older Americans continue to pay unreasonably high prices for prescription drugs basically because very powerful opposition to any reform legislation exists. You will see what I mean today. The Pharmaceutical Manufacturers' Association (PMA) has been most successful in protecting the interests of their membership. Through the years, PMA and Pharmacists in nearly every state enacted anti-substitution laws and laws or regulations which prohibit the posting or advertising of prescription drug prices. These measures insured consumer ignorance of Rx prices and lower-priced generic drugs. But, in state after state, these laws are now being repealed or amended by consumerist action.

The drug industry, in particular the PMA, wants to preserve its anti-competitive nature. It has been shown that the drug industry, over the past quarter century, has developed a market policy of promoting drug products exclusively to physicians.

It is estimated that brand-name manufacturers spend an average of over \$5,000 annually on every physician promoting brand names. A physician, consequently, may be compelled to prescribe

E X H I B I T "C"

A SHORT HISTORY OF THE RISE AND FALL OF  
STATE ANTISUBSTITUTION LAWS

Prepared By

NRTA-AARP Legislative Representative

Before the advent of drug manufacturing, pharmacists compounded the prescriptions written by physicians. In the absence of brand name products and antisubstitution laws, they selected the manufacturers of the ingredients they mixed into medicines, utilizing their professional expertise and judgment as to quality and economy.

Following World War II, the economic success of the drug industry in accumulating enormous profits gave rise to duplication and counterfeiting of prescription drug products. To combat the problem, the drug industry refused the obvious solution of increasing the authority of the Food and Drug Administration to regulate manufacturing and to test products. It chose instead to spend hundreds of thousands of dollars to enact state laws and regulations requiring pharmacists to dispense the manufacturer's product which the physician designated by brand name on the prescription form. Organized pharmacy set aside its professionalism for the time to help enact the antisubstitution laws restricting its own members from fulfilling their traditional responsibilities to their patients' health and economic status.

During the 1950's antisubstitution laws were quickly placed on the statute books of state after state with the justification of protecting the public health and safety. While it was the wrong

E X H I B I T "D"

MONTANA STATE PHARMACEUTICAL ASSOCIATION

House Bill No. 286

Amend as follows:

1. Amend page 3, section 3, lines 10 and 11  
Following: "opinion,"  
Strike: the remainder of line 10 and 11 in its entirety.  
Add: "generically equivalent."
2. Amend page 4, section 4, line 13  
Following: "is"  
Strike: "therapeutically"  
Insert: "generically"
3. Amend page 5, section 5, line 5  
Strike: "therapeutically"  
Insert: "generically"

E X H I B I T "E"

My name is Evelyn Johnson. I am employed by the Missoula Senior Citizens Center and come today to speak in support of HB 286 on behalf of many of the members of our Center.

Mr. Walter Taylor, Executive Director of the Missoula Senior Citizens Center, is unable to be here today, so he sent a brief message which I will read.

HB 286 was drafted and introduced for the purpose of reducing the very high cost of prescription drugs. As you know, the bill does not require pharmacists to substitute so-called generic drugs -- it only provides that they can substitute a less expensive drug if they feel it will be as pure and effective medication as if they used the more expensive name-brand ingredients.

I feel HB 286 would provide much-needed savings to senior citizens and other low-income persons. I feel the bill deserves your support, so, on behalf of Montana's many senior citizens, I respectfully ask that this committee give HB 286 your approval.

E X H I B I T "F"

KATHLEEN WALFORD SENIOR CITIZENS CENTER ASSOCIATION, INC.  
705 South ~~424~~ North Higgins Avenue, Missoula, Montana 59801  
Phone 543-7154

March 29, 1977

Public Health Committee  
Montana State Senate  
Helena, Montana

In Support of HB 286

All costs in regard to health have soared to unbelievable heights in recent years, and the cost of medicine is no exception.

Senior Citizens need more medicines than the average population, so drug costs are more burdensome to them. Because seniors are limited to a fixed retirement income the high cost of drugs force many of them to live on a very low standard.

We have older couples, members of our association, who have monthly medicine bills of \$70.00.

As to research costs, our patent laws protect an inventor for 17 years to recover research and development costs. Continued high prices mean unwarranted large profits.

HB 286 makes possible substantial savings on prescription drugs and, at the same time, reserves the right of choice for both the doctor and the patient.

The fact that more than twenty states have passed generic drug bills adds proof to the need for this legislation.

Passage of HB 286 will give substantial financial relief to Montana's senior citizens without adding to the tax bill.

We urge a "do pass" vote for HB 286.

*Walter G. Taylor*

Walter G. Taylor, Executive Director

E X H I B I T "G"

Mr. Chairman and Members of the Committee:

I am Oliver Dahl, Executive Director of the Montana Senior Citizens Association. Montana senior citizens support passage of House Bill 286. The spiraling cost of medicine and medical care severely affects the elderly persons ability to pay for these necessities. Do you realize that forty-one percent (41%) of Montana's elderly are below federal poverty guidelines? These people receive only two (2) to three (3) hundred dollars a month.

Decent medical care and decent medicine prices should be the right of every citizen --- especially those who have been relegated to live at subsistant levels through no fault of their own. And this problem will increase as the elderly population grows. If the Legislature does not pass HB 286 and other measures for seniors, the problems will just keep multiplying until they reach unmanageable proportions. I urge the Committee to pass HB 286.

Thank you,



Oliver M. Dahl

E X H I B I T "H"

My name is Mr. Willard Thompson I want to tell you about a case which recently came to the attention of the Information and Referral Technician in Missoula. The I and R technician is employed by the Western Montana Area Agency on Aging. When she investigated the case she found the couple, the wife of which is mentally ill, to be almost starving. The day she was there the refrigerator was ~~approximately~~ empty except for a quart of milk and three eggs. She learned that medication for the two of them amounted to \$90 a month. This cost on top of rent and utility bills used up almost every cent of their meager income.

She was able to obtain emergency help for them, but of course it was only temporary help. Reducing their drug bill by savings which could be effected by HB 286 would provide more permanent help.

Members of the Montana State Senate:

My name is Ed Doyle. I am a registered pharmacist and own Livin'ston Drug, an independent drugstore in Livingston. I am ~~a member of~~ the Park County Pharmaceutical Association, the pharmacists from Sweetgrass County, Wheatland County, Beaver County and Broadwater County. ~~Montana State Pharmaceutical Association~~ (Miss out letters). I am also a member of the board of directors of the Montana State Pharmaceutical Association, a member of the Medicaid Medical Advisory Council for the state of Montana, the American Pharmaceutical Association and the National Association of Retail Pharmacists.

I am appearing before you in complete opposition to the drug substitution bill, HB 286. My presentation will be brief.

It should be made clear that many pharmacists in Montana may be in favor of drug substitution to some degree, but I have yet to talk to one single pharmacist who is in favor of this bill. Every pharmacist I have talked to is either completely opposed or is in favor of substitution with no strings attached, which is hardly possible.

As I thought this bill would be killed in the house committee, I did not appear before that group. As you know, it passed by 2 votes.

Unfortunately, I understand our pharmacy lobbyist, Mr. Rod Guigel, appeared before the house committee in favor of the controversial substitution bill - based on a survey he conducted with Montana pharmacists early last fall. This survey, I believe, is completely misleading - even to pharmacists. However, this may be due to the fact that our pharmacy lobbyist is not a pharmacist, so it is understandable if he does not fully understand the situation.

To briefly discuss our pharmacy, non-pharmacist lobbyist's survey, which I consider very misleading, (Read the statement from the questionnaire) 105 for 45 against when the question is tied in with the federal Maximum Allowable Cost/estimated Allowable Cost regulations, which practically every pharmacist in the United States is opposed to. These regulations are not our concern here. However, this little fail on the questionnaire misled many pharmacists into voting the way they did.

Also, to illustrate how ridiculous is this questionnaire of our lobbyist is another question: 79 No 70 Yes to provide that forging a prescription shall be unlawful. In other words, almost half of Montana's pharmacists would like to see a law making forging a prescription legal!!! Isn't this ridiculous? Let's face it, one-half of Montana's pharmacists misread the question! So much for the reliability of our lobbyist, Mr. Guigel's survey which he apparently made a big deal of before the house committee.

In regard to this controversial substitution bill, HB 286, -this is a very long bill which should be compared to opening the lid on Pandora's box - especially the last 3 paragraphs which are at the heart of the bill:

Read Section 5 Paragraph 2

Read Section 6 Paragraph 1 and 2

Also, this statement "consistent with reasonable judgement" - what does this qualification mean? Where does this place the responsibility if a severe drug reaction occurs, or is this some kind of a loophole or some kind of double talk? What is the concise definition of "consistent with reasonable judgement"? Should I use this, in my opinion, crap, (hold up a generic bottle) or should I use this high quality product (Peritrate bottle) in your prescription or in your family's prescription? This substitution bill states that I should this stuff (generic bottle) from a company which does no research whatsoever, and I don't know for sure if they are even still in business. Or should I use this company's product which, on the other hand, spends millions of dollars on medical research. The product, by the way, is very widely, used in the treatment of pain associated with coronary artery disease. Which would you prefer? If you or your family had coronary disease?

What will prevent an unscrupulous pharmacist from substituting a cheap product and charging a higher quality product price? Would the consumer benefit from this? Why provide an opportunity for this to happen by passing this bill.

In my drugstore, I can't for the life of me see where this bill is going to save the consumer 1¢! And I operate a very competitive store with high quality products! However, this bill would undoubtedly increase my liability insurance rates, which would immediately be passed on to the consumer in the form of higher prescription prices!

Most states don't have a drug substitution law. Many of those states that do are trying to repeal them. An example of a state that has a drug substitution law:

(Read results of Michigan's failure of substitution bill or law)

(Pass out FDA Bioavailability problem list, explain, and read Para. 1 Section 3.)

In explanation of the FDA problem list: On March 1, 1977, a list was published in "American Druggist", a highly regarded pharmacy publication. This list was just released by the FDA (Food and Drug Administration - Washington D.C.) and contains 110 drugs which have bioavailability problems and therefore could not be safely substituted without possibly endangering a patient's health. Bear in mind there are 110 basic generic drugs which may be used in combination with other drugs and are each manufactured by from 2 to 65 manufacturing companies, therefore, there could be several thousand products on the market, which require a prescription, which may have bioavailability problems and which could not be safely substituted.

The list speaks for itself as evidence that drug substitution is unwise. In fact the FDA (Food and Drug Administration, Washington D.C.) states that there may be many others which have bioavailability problems but are not listed because the FDA (the Federal government) does not have the time or money to investigate the bioavailability of every drug on the market! If the federal Food and Drug Administration does not have the time and money, how do you expect the average pharmacist to have the ~~the~~ time, the money, facilities, or know-how to determine bioavailability of every drug on the market? (Again read Paragraph 1 Section 3 last sentence.) It doesn't make any sense whatsoever, does it?

It is my opinion that any pharmacist who substitutes would have to be out of his mind ~~and~~ <sup>you</sup> have taken complete leave of his senses, if this bill passes or not!

In this entire substitution bill, which must be one of the longest substitution bills in the United States, Representative Palmer has failed to define a consumer! Therefore, let's define a consumer: Wouldn't you agree that consumers are you and I, your children, your families, your relatives, the rich, the poor, the young, the middle-aged, and the senior citizens?? We are all consumers!!

It makes me wonder if Rep. Palmer is simply using the consumer or consumer interest label merely to get his name on a bill. If this could be true, it is my opinion that the consumers he claims to represent would resent, very very deeply, their being used in this manner.

I'm sure Rep. Palmer, who they say is a school teacher, (don't get me wrong, I like school teachers - I'm even married to one) but I believe that Rep. Palmer is no more qualified to change the practice of medicine or the practice of pharmacy in Montana, than I would be qualified to go into Missoula and try to change the education programs in his school system!

You are all very intelligent people or you wouldn't be here in the Montana State Senate, so please - please consider this controversial bill very very carefully, with all of its unknown ramifications, - this bill which may not benefit the consumer at all or save the consumer one single penny!

The only advantage I see to this bill is that it is a vote <sup>getting</sup> mechanism and publicity for Rep. Palmer.

The dangers to the consumers and pitfalls inherent in this type of legislation, this controversial legislation, far outweighs any questionable benefits to the consumer.

Please consider the consumer first and vote a definite NO on this HB 286. You can't compromise a person's health.

Thank you for your time and consideration.

  
Ed Doig, Reg. Pharmacist  
Livingston Drug  
119 South Main  
Livingston, Montana 59047

EXHIBIT "J"

SEATORS OF THE COMMITTEE

My name is BRAD STOCK, REGISTERED PHARMACIST IN MONTANA AND CO-OWNER OF STOCK DRUG IN MISSOULA.

FIRST I WOULD LIKE TO DELIVER TO THE COMMITTEE (MONTANA STATE LEGISLATURE (SENATE)) OVER 20 SIGNED LETTERS FROM PHARMACISTS IN THE MISSOULA AREA WHO ARE IN OPPOSITION TO HOUSE BILL 286.

NOW IN MY BEHALF I WOULD LIKE TO PRESENT BRIEFLY THREE POINTS FOR THE COMMITTEE'S CONSIDERATION REGARDING HOUSE BILL 286.

SUBSTITUTION OF A LESS EXPENSIVE THERAPEUTICALLY EQUIVALENT DRUG FOR ANOTHER - IS PRESENTLY ACOMPLISHED BY SIMPLY CONTACTING THE PRESCRIBER AND OBTAINING THE PROPER AUTHORIZATION. - WITH THIS IN MIND IT WOULD SEEM THAT WE HAVE LEGAL SUBSTITUTION ALREADY WITHOUT LEGISLATION.

E X H I B I T "K"

AMENDMENTS TO HOUSE BILL NO. 286

Amend Section 3, page 3, by deleting lines 12 through 25, in their entirety and inserting in lieu thereof the following:

"(2) Every prescription written in this state by a prescriber shall be on prescription forms containing 2 lines for the prescriber's signature. Alongside the first line shall be clearly printed the words, 'substitution permitted'. Alongside the second line shall be clearly printed the words 'dispense as written'. The prescriber by placing his signature on the appropriate signature line has indicated his dispensing instructions to the pharmacist. Failure of the prescriber to sign either of the designated lines shall invalidate the prescription. When a prescription is communicated orally, dispensing instructions shall be given to the pharmacist. In absence of any dispensing instructions, the pharmacist shall fill the prescription as communicated to him. The pharmacist shall note the prescriber's dispensing instructions relative to substitution, on the face of the file copy of the prescription."

# PROFESSIONAL VILLAGE PHARMACY



PROFESSIONAL VILLAGE 515 KENSINGTON 542-2111 MISSOULA, MONTANA 59801

3/26/77

This is to certify that I am opposed to the  
passage of HB 0286/03, as it is now written.  
I would be in favor of this bill if the legislature  
would at the same time, establish + fund a state  
laboratory, whose function would be to assay  
every batch of generic drugs sold in the  
State of Montana.

James H. Keenan R.Ph.  
524 Union Avenue  
Missoula, Montana  
59801

March 28-77

I am appased to HB 286

HB 286  
House Bill No. 286  
House Bill No. 286  
515 Pennsylvania Ave  
Montana, Montana

28 Mar 77

James Tang MD  
615 Kensing ton  
Montana 59011  
59011

March 28 1977

# Optical Center

Phone 549-1484  
125 E. Main  
and  
Professional Village  
Missoula, Montana 59801



whom it may concern:

I am opposed to HB 286 for the following reason: who will be in charge of determining the bioavailability of so-called "generic" equivalents. I oppose HB 286.

Change bioavailability  
208 is what it has to  
proba / not

Stephen W. Dill  
501 Ford St.  
Missoula, Montana





26 March 1977

at Many Cities

zone 4 B 0286/03

W.H. Ministry M

and Kindred!

OO W. Kent.

Noticias a Villages  
Mission, Tex

28 Mar 77  
To whom it may concern  
I am strongly opposed to one  
HZ 286

as written

we should be  
free of selling  
Mustard

do approve

16. B 286

W.H. Ministry M  
and Kindred!

# PUBLIC DRUG CO.

JAMES T. CLAY, R.P.H.  
WHITE SULPHUR SPRINGS, MONTANA 59645  
3/22/77

Mr. Ed Doig  
Livingston Drug  
Livingston, Mt.

Dear Ed;

I am writing to say that I support your stand against HB 286. The potential dangers to the small community pharmacies are too numerous to mention in a letter but I cannot voice my opposition to this bill in terms that are too strong.

Sincerely,

*James T. Clay*  
James T. Clay



**FRANCISCO**  
PHARMACY  
Ph. 266-3325 Ph. 266-3325  
GOOD HEALTH TO ALL  
TOWNSEND MONTANA



CENTRAL MONTANA'S FINEST DRUG STORE

3-22-77

TO WHOM IT MAY CONCERN:

I FIRMLY SUPPORT ED DOIG, R.PH. IN EVERY WAY REGARDING HIS  
OPPOSITION TO H.B.286, THE SO-CALLED "SUBSTITUTION BILL".

IN NO WAY DO I SUBSCRIBE TO THE SUM AND SUBSTANCE OF THE BILL  
AND I FEEL THAT THE CRITERION FOR THE "BALLOT" TAKEN AMONG  
PHARMACISTS BY THE M.P.A. WAS MISLEADING AND TOTALLY FALSE.

*Anthony Francisco*  
ANTHONY J. FRANCISCO, R.PH.  
OWNER, FRANCISCO PHARMACY  
TOWNSEND, MONTANA 59644

whom it may concern:

As owner and operator of Corvallis Drug, I am opposed  
to HB 25285 on the grounds that I will have to bear the product  
liability on substituted medicinals.

Yours,

*Marshall Holmberg*

Marshall Holmberg  
Corvallis Drug  
Box 161  
Corvallis, Montana 59828

Legislature of State of Montana 1977

In Reference to House Bill No. 286

Introduced by Palmer, Hansen, Kessler, Cooney

3-26-77

This is to let you know that I (Don C. Ryan) do  
oppose House Bill No. 286. This is a drug substitution  
bill, which in turn give the people of Montana a  
substandard medication program.

The pharmacies would have to stock double inventories,  
name brand for those who requist quality drugs and  
junk for those who want cheap.

Pharmacist would open them selves as to the the  
liability as to the quality of the drugs that they  
will be required to use.

If the legislature would institute laboratories to  
check the Bioequivalent and Bioavailable equivalent  
of all drugs coming into the state.

Yours truly

*Don C. Ryan*

Don C. Ryan



# CITY DRUG

23 March 1977

101 N. MAIN LIVINGSTON, MONTANA 59047

To Whom it may concern:

We, the undersigned Pharmacists of the Livingston Pharmaceutical Association, hereby authorize Ed Doig to speak for us and to express our views relative to HB 286, the proposed "Montana Drug Product Selection Act."

*R.D. Petersen*  
CITY DRUG

R.D. Petersen, R.Ph.

PUBLIC DRUG

*Ronald Mogen R.Ph.*

Ronald J. Mogen, R.Ph.

THOWER PHARMACY

*Doug Linsted*  
Doug Linsted

*Carl Carlson R.Ph.*  
T. Emil Madsen, R.Ph.

PREScriptions — GIFTS — COSMETICS

## COLE DRUG COMPANY

BIG TIMBER

PHONE 932-2816

MONTANA

FOR \_\_\_\_\_

DATE \_\_\_\_\_

ADDRESS \_\_\_\_\_

*R*

I support Ed Doig in voting against House  
Bill # 286. I am against all parts of this bill  
in any manner or form.

Sincerely,

*Ramona B. Holdeman*

Ramona B. Holdeman  
Reg. Pharmacist

LABEL \_\_\_\_\_

REFILL \_\_\_\_\_ TIMES \_\_\_\_\_

N.R. — P.R.N. \_\_\_\_\_

M.D.

My name is D. J. Steiner, I am manager of Gibson Pharmacy, here in Helena.

I represent myself as well as my employer, who also operates pharmacies in Billings & Great Falls. No one can fault Mr. Palmer's intent in introducing this bill. He is making the assumption that substituting generic medication on prescriptions will save the patient money. This might be so, although there are examples of states with substitution laws where the amount of money saved is insignificant. But money is not the most important aspect of prescription medications. I am not going to delve into all the problems of bioequivalency & bioavailability. Let's us just assume that some such problems do exist. If any of you have doubts I have a copy of a list of 115 medications that the FDA says that there are known or potential bio-equivalent problems. That means that about 5-10% of the commonly prescribed drugs might have such problems. If the doctor knows of the possibility of such a problem-- as he would under the present laws, because the pharmacist cannot get his permission to make any substitution-- he can correct a therapeutic problem if it arises. If the prescriber does not know of the substitution, he has to assume that the TYPE of drug, rather than brand of drug, is causing the problem. He will then have to try additional drugs, all costing additional money. In such a situation it would not be impossible for the original substitution to actually cost the patient more money. Every pharmacy exists ONLY because it can satisfy the demands of its customers. If a patient requests his prescription filled with a cheaper, generic drug we try to comply-- but we always check with the prescriber FIRST. The present pharmacy regulations require pharmacies to post a sign to inform the patient of the possibility of saving money by having the prescription filled with generic drugs. So as things are now; the patient is informed of the availability of generic drugs, he can, if he wishes, request them, AND the doctor retains some essential control. In other words, things are running along nicely now. We do NOT need this bill to become law & rock the boat.

D. J. Steiner  
Box 42412  
Helena, MT 59601

Mineral Pharmacy  
Superior, Montana 59872  
March 26, 1976

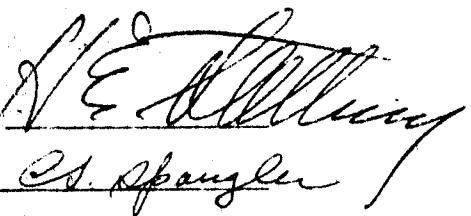
To whom it may concern in the Legislative Body in Helena,  
Montana.

As Registered Pharmacists, we are against the repeal of the  
Substitution law, which is coming before the Legislative  
Body in Helena, Montana.

Sincerely,

H.E. Stelling

C.S. Spangler

Handwritten signatures of H.E. Stelling and C.S. Spangler. The signature of H.E. Stelling is written over the typed name. The signature of C.S. Spangler is written over the typed name.

**VALLEY DRUG**  
PRESCRIPTION DRUGS  
VETERINARY SUPPLIES - COSMETICS - CARDS  
STEVENVILLE, MONTANA 59870

MAR 28, 1977

To whom it concerns,

I am against H.B. 286 which  
would allow free generic substitution of  
prescription drugs.

The PATIENT must be protected  
from the cheap & possibly lower quality  
of some of these generic drugs.

A good Doctor, - pharmacist, - patient  
relationship, which this bill could damage, allows  
the patient to receive the best drugs at the  
lowest cost.

Don Stevenson RPh #2436  
Stevensville  
MT.

## INTERNAL CORRESPONDENCE



	from	
located	company	located
	date	

THIS IS A LETTER AGAINST H.B. 286 - PERIOD;  
ALLOWING A PHARMACIST TO SELECT A GENERICALLY, LOWER  
PRICED AND A BIOEQUIVALENT DRUG PRODUCT FOR A  
PURCHASER. THE DRUGS ARE NOW WAITING GENERIC-  
ICALLY; SO THERE WOULD BE NO ADVANTAGE TO  
THIS BILL. AND BEING THAT THERE IS A DIFFERENCE  
IN THE MANUFACTURING AND INGREDIENTS OF  
GENERIC DRUGS - THE PATIENT WOULD BE  
THE ONE TO SUFFER THE SIDE EFFECTS FROM  
A DRUG THAT DOES NOT MEET THE REQUIREMENTS  
OF A BIOEQUIVALENT DRUG.

**VALLEY DRUG**  
PRESCRIPTION DRUGS  
VETERINARY SUPPLIES - COSMETICS - CARDS  
STEVENSVILLE, MONTANA 59870

March 28, 1977.

To whom it concerns;

Let it be known that I am against HB 286 which calls for allowing random generic substitution of prescription drugs.

First of all, if the state is going to allow this, they should establish and fund a lab to assay the cheap "garbage" generics that are available.

Secondly this throws the full responsibility for drug selection upon the Pharmacist with the possibility of more law suits.

Alan E. Kelley, RPh

#2203

*A & C Drug*

PAT HOLDEN  
523 N. Higgins, Box 7966  
MISSOULA, MONTANA 59801

To whom it may concern:

I, as a registered pharmacist, am opposed to Senate Bill # 286. This is for many of the reasons you have already heard plus, perhaps, one more. With the number of third party payments increasing each year the "can substitute" can very easily become "must substitute". This would, of course, be due to the reimbursement authorized by these third parties. I am sure that I as a pharmacist can carry quality drugs even with this bill up to the point where third parties start reimbursing for the lowest cost generic drug available. I am sure that you are already aware that generic equivalency does not necessarily guarantee chemical or medicinal equivalency.

Thank you for your time.

Sincerely,

*Dennis Shanahan*

Dennis Shanahan Reg. Pharm.  
A & C Drug

*A & C Drug*

523 N. Higgins PAT HOLDEN  
~~122 EAST BROADWAY~~ • P. O. BOX 1113  
MISSOULA, MONTANA 59801

*3/28/77*

Senators on Public Health, Welfare and Safety  
Senators  
Capital Building  
Helena, Montana

Dear Senators

I am strongly opposed to passage of HB 286. There is no substitution for right and the substitution amendment is definitely wrong.

R  
P



PHONE 542-0343

DRUG  
STORE

P.O. BOX 1223

CORNER HIGGINS & BROADWAY MISSOULA MONTANA 59801

Senate Sub-committee Hearing on HB 286

Dear Sirs:

I would like to express my opposition to the substitution bill. I fear the quality of our health care system will be sacrificed for lower prices.

Sincerely,

Delle Morgan

R



PHONE 542-0343

DRUG  
STORE

P.O. BOX 1223

CORNER HIGGINS & BROADWAY MISSOULA MONTANA 59801

March 28, 1977

Senate Sub-committee Hearing on HB286

Dear Sirs:

I oppose this bill.

The entire issue is irrelevant because a pharmacist can, on request of the customer, and always has been able to dispense a less expensive generic equivalent simply by phoning the prescribing physician.

Quality is, to me, the most important ingredient in any prescription. There are several ways to determine quality: set up a chemical laboratory in the pharmacy and run comparative assays on different brands of a specific drug; research bioavailability monographs that have been compiled by other laboratories; or trust my knowledge of the companies who manufacture drug products. Obviously the first way is not feasible. Bioavailability data is not available for all drugs and it is important to note that the FDA, at least to date, has not established a bioequivalence requirement for any drugs. Therefore I feel I must select pharmaceuticals from reliable pharmaceutical companies and not dispense a drug on the basis of its price.

I feel that if this bill passes, the day is in sight when I will be forced (esp. by 3rd parties) to dispense "cheap" instead of "quality".

Sincerely,

*Nancy Manning*  
Nancy Manning RPh

B  
S



PHONE 542-0343

DRUG  
STORE

P.O. BOX 1223

CORNER HIGGINS & BROADWAY MISSOULA MONTANA 59801

March 25, 1977

Senate Sub-committee Hearing on HB 286:

Dear Sirs:

I am opposed to this bill for many reasons. The most important of which is that I feel this will be destructive of Clinical Research by which we have made so much progress in the last 20 years.

This bill is in direct opposition to the Federal Trade Mark Law and as such places us in an untenable position.

Sincerely,

A handwritten signature in cursive ink that reads "Byron E. Dodd RPh".

Byron E. Dodd RPh

Senate Committee on Health, Education, And Safety.

for Senate Bill 286 Drug Product Selection

John Wiley

In this age where medicine has advanced to the point where the physicians are merely coordinators of a larger medical system and are losing their stronghold on total health care increasing pressure has been put on physicians to delegate out their power of product selection to the pharmacist. As a pharmacist I view this move with suspicion.

Opponents for repeal of anti-substitution point to consumer savings as the issue but study the cost.

Under present law a physician who works with a limited repertoire of drugs in his practice may specify one brand of a drug consistently and become familiarized with the results obtained. Allowing substitution interjects another variable into the already complex therapy scheme. While brand name alone does not assure quality it may contribute to uniformity of results.

Recently FDA reports have shown therapeutic inequivalence among so called bioequivalent drugs. Of the drugs involved, digoxin is a well documented example. Where the physician can not control the brand dispensed variation in absorption between brands can mean the difference between uncontrolled heart failure, controlled heart failure, and digoxin toxicity. Where a physician is familiar with the brands he prescribes he can better anticipate results.

Other proponents of the bill feel the pharmacist is more qualified to judge bioavailability data and select the product to be dispensed. While today's pharmacist does have training in evaluating bioequivalency data manufacturers have not made bioassay research widely available. In absence of this type of data we lack the one other thing that would enable us to judge products; results. The pharmacist is in a poor position to make any follow-up judgements of results, indeed the pharmacist often does not even the diagnosis of the disease being treated.

Realizing that bioinequivalence does exist, that bioavailability data is poorly disseminated, and that physicians can control uniformity of results through experience with drug brands I urge you to defeat the proposed repeal of the state's anti-substitution laws.

Sincerely,

Dale R. Wiley  
Dale R. Wiley  
R. Ph. 2661

# East Gate Drug

BOX 1868 8121  
EAST GATE SHOPPING CENTER  
MISSOULA, MONTANA 59801  
PHONE 549-5611



MARCH 28, 1977

SENATOR W. NORMAN M. D.  
CAPITOL BLDG  
HELENA, MONTANA 59601

DEAR DOCTOR NORMAN:

RE: HB 286

I AM AGAINST HB 286. IT NOT ONLY WILL NOT SAVE THE PATIENT MONEY, BUT THERE IS EVERY POSSIBILITY THAT IT WILL REDUCE THE QUALITY OF OUR MEDICAL CARE.  
I AS A PHARMACIST WANT MY DOCTOR TO DETERMINE WHAT IS BEST FOR ME, PLEASE NOT THE GOVERNMENT.

SINCERELY,

*Don Whitman*

DON WHITMAN RPH  
EAST GATE DRUG CO  
EAST GATE SHOPPING CENTER  
MISSOULA, MONTANA

# East Gate Drug

BOX 1550 8121

EAST GATE SHOPPING CENTER  
MISSOULA, MONTANA 59807  
PHONE 549-5611



MARCH 28, 1977

SENATOR Wm. NORMAN M. D.  
CAPITOL BLDG.  
HELENA, MONTANA 59601

DEAR DR. NORMAN:

RE: HB 286

I AM AGAINST HOUSE BILL 286. IT IS IMPOSSIBLE TO DISPENSE  
THE LOWEST PRICED EQUIVELANT BECAUSE NOT ALL THE BIOAVAILABILITY  
STUDIES ARE AVAILABLE TO US. THE BILL IS FULL OF HOLES AND I  
THINK IT WILL LOWER MEDICAL STANDARDS.

THIS BILL SHOULD BE DEFEATED.

SINCERELY,

*Jeannine O'Connor RPh*

JEANNINE O'CONNOR RPH  
EAST GATE DRUG

# East Gate Drug

BOX 1008 8/21

EAST GATE SHOPPING CENTER  
MISSOULA, MONTANA 59801  
PHONE 549-5611



MARCH 25, 1976

RE: HB 286

I HAVE NOT SEEN THE BILL SINCE IT WAS FIRST INTRODUCED. I UNDERSTAND IT HAS BEEN AMENDED. WITH THIS IN MIND, I CAN ONLY COMMENT GENERALLY, AND NOT ADDRESS THE SPECIFICS.

I THINK THE INTENT OF THIS BILL IS LAUDABLE. BASED ON MY PRACTICAL EXPERIENCE WORKING RELIEF IN MISSOULA, I CANNOT SEE THAT IT WOULD BRING ANY SIGNIFICANT CHANGE TO PRACTICES NOW BEING FOLLOWED. I WOULD HOPE THAT THE ELDERLY WOULD NOT BE MISLEAD INTO THINKING THERE WILL BE A GREAT REDUCTION IN THEIR PRESCRIPTIONS. MOST DOCTORS IN OUR COMMUNITY PRESCRIBE GENERICS WHEREVER POSSIBLE. I CAN'T SEE THAT THE BILL WOULD ACCOMPLISH MUCH MORE IN THE WAY OF SAVINGS. BUT THEN, I HAVEN'T READ THE BILL.

RESPECTFULLY,

*Harriette Dooling, R.Ph.*

# PETERSON DRUG COMPANY

232 North Higgins Avenue  
P. O. Box 1133  
Missoula, Montana 59801

H. C. Kohlhus, President

Phone 549-2325

Missoula, Montana

March 2<sup>nd</sup>, 1977

Whom it may concern:

We, the undersigned, oppose HB 2006, the Product Selection Act. We do not feel that the pharmacist should be empowered with the selection of a substitute product without the consent of the prescribing practitioner. This choice should rest with the prescriber.

Harold C. Kohlhus  
Mont #1364

David J. Hartwig RPh  
Mont #1909

Jack's Prescription Drive-In  
710 Orange St  
3.26.77

HB 286: Montana Drug Product Selection Act

John H. Ross

Oppose enactment of HB 286.

There are two major categories of prescription drugs in which generic drugs are widely available. One category is antibiotics and in this area the majority of prescriptions for antibiotics are currently written generically. The pharmacists are filling these with major pharmaceutical manufacturers products, in other words, the pharmacist does not trust the dozens of cheap generic drug companies that do not identify their own product tablets as do the major drug firms. This indicates to me the generic drug company is in the business for the money, not for the benefit of the consumer or the pharmaceutical industry.

The other category is antihypertensive/diuretics & their combinations. In the second category the FDA has issued a list of 110 drugs where substitution is not advised due to bioequivalence problems. Seventyfive of the 110 are in this second category. This bill will have no beneficial effect because the bioequivalence problems pointed out by the FDA will prevent "drug product selection" in one or two major categories.

Also I quite frequently receive generic prescriptions for drugs that the FDA has labeled as having bioequivalence problems. This indicates the physicians writing these prescriptions to not realize the potential problems that may arise by using non-bioequivalent drugs.



SECOND AND ROSE STREETS  
MISSOULA, MONTANA 59801  
TELEPHONE: (406) 542-2191

D. A. WANBERG, ADMINISTRATOR

3-28-77

Senate Committee in charge of HB 286, Drug Substitution act,

As a registered Pharmacist I wish to go on record as being opposed to HB 286. It opens a can of legal worms. First it forces the Pharmacist to carry two inventories (which increases drug prices) & defeats the purpose. Second, the patient himself is not qualified or schooled in drugs to make that decision for himself. Thirdly, it leaves the door open for subpotent generics to find their way into Montana, if an unscrupulous Pharmacist wishes to do so.

There is really no need for this law as the Doctors are already free to ask for trade name or generic products now. Pharmacists co-operate with their wishes. Doctors have the medical training to be qualified in this area, the patient does not.

Thank you very much.

*Nancy Low*  
Nancy Low  
Registered Pharmacist  
# 2195

# STOICK Pharmacies



PHONE (406) 543-4676

P.O. BOX 7339  
MISSOULA, MONTANA 59807

March 26, 1977

Senate Committee on Public Health, Welfare and Safety  
re: HB 286, The Montana Drug Product Selection Act

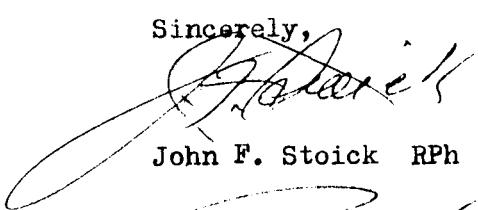
Senators,

We are opposed to HB 286 for many reasons, the following we feel are of key importance.

- 1) From the liability point of view. We are pharmacists, not prescribing physicians, and therefore should not be delegated the increased liability with which such a bill would burden us.
- 2) Consumer savings will be minimal regardless of what is expected by the proponents of this bill. Presently there are only about 20% of all pharmaceuticals produced that have generic equivalents. Competition in this area has become so strong that the majority of the manufacturers have lowered prices in order to stay in the market.
- 3) Although FDA approved and supervised, the quality of many generic drugs and the credibility of their manufacturers are questionable from our professional point of view.

We strongly urge your do not pass recommendation concerning this bill as we feel it will be a step further in the degradation of medical care in Montana and the United States.

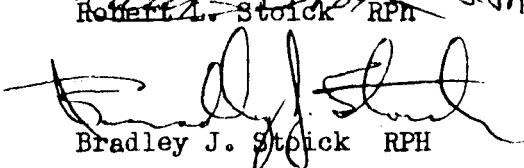
Sincerely,



John F. Stoick RPh



Robert L. Stoick RPh



Bradley J. Stoick RPh



## DISCOUNT PHARMACY

Palmer M. Kronen - Owner

700 Southwest Higgins - Missoula, Montana 59801 - Phone 549-4125

3-28-77

Senate Committee

I'm apposed to house bill 286 as it is written, in many cases information on 'therapeutic equivalency' is not available to the pharmacist, and he hasn't the data to make proper judgment. Also making substitution of cheapest brand mandatory might not always be in the best interests of the patient.

Sincerely,

A handwritten signature in black ink that reads "Palmer M. Kronen". The signature is fluid and cursive, with "Palmer" on the top line and "M. Kronen" on the bottom line.



March 29, 1977

Senate Public Health Committee  
Capitol Building  
Helena, Montana 59601

Dear Sirs:

Re: HB #286- which would allow pharmacists to select a less expensive generic drug product.

In keeping with quality medical care, why would we want to use the least expensive brand available, rather than brands of much better quality?

If there were printed some type of compendia which would list which products are actually bioequivalent, it would be much easier to make this sort of product selection. As it is now, how do we know that one brand of erythromycin stearate is equivalent in every way to a less expensive brand of erythromycin stearate.

It is my opinion at this time, that Pharmacists today are delivering the patient the best products available, and at the most reasonably priced. If the patient wants a generic substitution made now, all that it requires is a phone call to the Dr. The patient may also ask the M.D. to write the prescription generically, originally.

For these reasons, I cannot support HB # 286.

Sincerely,

G.M. Stocking, R.Ph.

J.W. Moody, R.Ph.

STATEMENT BY J. BRUUN  
*Salesman  
Eaton Labs*

The facts and figures I am about to give are partly from documented evidence and partly from personal experience. My remarks regarding generic substitution may seem prejudiced, however after 22 years in the armed forces, over half of it as a Pharmacy Technician, I became somewhat bitter at the devious means any conscientious pharmacy personnel had to use to elude dispensing the obviously inferior products that were purchased at seemingly bargain prices or to put it bluntly 'the lowest price got the bid'.

It is ironic that several years ago Pharmacists seemed to enjoy selling the higher priced medications, though they made a smaller percentage on the transaction, there was a good dollar volume. Now it seems that some Pharmacists, not necessarily the majority, are promoting the lower priced entities. Odd, isn't it?

I shall at this time present a few excerpts from some of the documented evidence I am submitting. Each committee member will receive a copy of the evidence. Time does not permit me to present this in its entirety.

Alfred Gilman Ph.D., co-author of Goodman & Gilman, the most widely used Pharmacology book in teaching institutions, in an open letter to Sen. Gaylord Nelson, which incidentally may be found in the Congressional Record of Sept. 17, 1967 states: "I am appalled by many of those statements which imply that generic drugs, marketed cheaply by small drug companies, are the equivalent of established trademarked preparations merely because chemical analysis indicates that the preparation actually contains the specified amount of drug." "... I have seen instances where slight changes in formulation have doubled the blood levels and halved the therapeutic dose of the drug. These were not clinical impressions but carefully designed and accurate studies. I am, therefore, convinced that there is not such a thing as a generic equivalent unless proven by adequate experimental data."