



General Assembly

January Session, 2001

**Committee Bill No. 677**

LCO No. 5000

Referred to Committee on Human Services

Introduced by:  
(HS)

**AN ACT CONCERNING PRIOR AUTHORIZATION AND GENERIC  
SUBSTITUTIONS FOR PRESCRIPTION DRUGS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17b-274 of the general statutes is repealed and the  
2 following is substituted in lieu thereof:

3 (a) The Commissioner of Social Services shall pay a pharmacist a  
4 professional dispensing fee of fifty cents per prescription, in addition  
5 to any other dispensing fee, for substituting a generically equivalent  
6 drug product, in accordance with section 20-619, for the drug  
7 prescribed by the licensed practitioner for a Medicaid recipient,  
8 provided the substitution is not required by federal law or regulation.

9 (b) The Division of Criminal Justice shall periodically investigate  
10 pharmacies to ensure that the state is not billed for a brand name drug  
11 product when a less expensive generic substitute drug product is  
12 dispensed to a Medicaid recipient. The Commissioner of Social  
13 Services shall cooperate and provide information as requested by such  
14 division.

15 (c) A licensed medical practitioner may specify in writing or by a  
16 telephonic or electronic communication that there shall be no  
17 substitution for the specified brand name drug product in any  
18 prescription for a Medicaid, state-administered general assistance,  
19 general assistance or ConnPACE recipient, provided [(1) the  
20 practitioner specifies the basis on which the brand name drug product  
21 and dosage form is medically necessary in comparison to a chemically  
22 equivalent generic drug product substitution, and (2)] the phrase  
23 "brand medically necessary" shall be in the practitioner's handwriting  
24 on the prescription form or, if the prohibition was communicated by  
25 telephonic communication, in the pharmacist's handwriting on such  
26 form, and shall not be preprinted or stamped or initialed on such form.  
27 If the practitioner specifies by telephonic communication that there  
28 shall be no substitution for the specified brand name drug product in  
29 any prescription for a Medicaid, state-administered general assistance,  
30 general assistance or ConnPACE recipient, written certification in the  
31 practitioner's handwriting bearing the phrase "brand medically  
32 necessary" shall be sent to the dispensing pharmacy within ten days. A  
33 pharmacist shall dispense a generically equivalent drug product for  
34 any drug listed in accordance with the Code of Federal Regulations  
35 Title 42 Part 447.332 for a drug prescribed for a Medicaid, state-  
36 administered general assistance, general assistance or ConnPACE  
37 recipient unless the phrase "brand medically necessary" is ordered in  
38 accordance with this subsection. [and such pharmacist has received  
39 approval to dispense the brand name drug product in accordance with  
40 subsection (d) of this section.]

41 [(d) The Commissioner of Social Services shall establish a procedure  
42 by which a pharmacist shall obtain approval from an independent  
43 pharmacy consultant acting on behalf of the Department of Social  
44 Services, under an administrative services only contract, whenever the  
45 pharmacist dispenses a brand name drug product to a Medicaid, state-  
46 administered general assistance, general assistance or ConnPACE  
47 recipient and a chemically equivalent generic drug product  
48 substitution is available, provided such procedure shall not require

49 approval for other than initial prescriptions for such drug product. If  
50 such approval is not granted or denied within two hours of receipt by  
51 the commissioner of the request for approval, it shall be deemed  
52 granted. The pharmacist may appeal a denial of reimbursement to the  
53 department based on the failure of such pharmacist to substitute a  
54 generic drug product in accordance with this section.

55 (e) A licensed medical practitioner shall disclose to the Department  
56 of Social Services or such consultant, upon request, the basis on which  
57 the brand name drug product and dosage form is medically necessary  
58 in comparison to a chemically equivalent generic drug product  
59 substitution. The Commissioner of Social Services shall establish a  
60 procedure by which such a practitioner may appeal a determination  
61 that a chemically equivalent generic drug product substitution is  
62 required for a Medicaid, state-administered general assistance, general  
63 assistance or ConnPACE recipient.]

64 Sec. 2. Subsection (e) of section 17b-491 of the general statutes is  
65 repealed and the following is substituted in lieu thereof:

66 (e) All prescription drugs of a pharmaceutical manufacturer that  
67 participates in the program pursuant to subsection (d) of this section  
68 shall be subject to prospective drug utilization review, but not prior  
69 authorization. Any prescription drug of a manufacturer that does not  
70 participate in the program shall not be reimbursable, unless the  
71 department determines the prescription drug is essential to program  
72 participants.

73 Sec. 3. Section 17-491a of the general statutes is repealed and the  
74 following is substituted in lieu thereof:

75 [(a) The Commissioner of Social Services may establish a plan for  
76 the prior authorization of (1) any initial prescription for a drug covered  
77 under the Medicaid, state-administered general assistance, general  
78 assistance or ConnPACE program that costs five hundred dollars or  
79 more for a thirty-day supply, or (2) any early refill of a prescription

80 drug covered under any of said programs. The Commissioner of Social  
81 Services shall establish a procedure by which prior authorization  
82 under this subsection shall be obtained from an independent  
83 pharmacy consultant acting on behalf of the Department of Social  
84 Services, under an administrative services only contract. If prior  
85 authorization is not granted or denied within two hours of receipt by  
86 the commissioner of the request for prior authorization, it shall be  
87 deemed granted.]

88 [(b)] (a) The Commissioner of Social Services shall, to increase cost-  
89 efficiency or enhance access to a particular prescription drug, establish  
90 a plan under which the commissioner may designate specific suppliers  
91 of a prescription drug from which a dispensing pharmacy shall order  
92 the prescription to be delivered to the pharmacy and billed by the  
93 supplier to the department. For each prescription dispensed through  
94 designated suppliers, the department shall pay the dispensing  
95 pharmacy a handling fee not to exceed four hundred per cent of the  
96 dispensing fee established pursuant to section 17b-280. In no event  
97 shall the provisions of this subsection be construed to allow the  
98 commissioner to purchase all prescription drugs covered under the  
99 Medicaid, state-administered general assistance, general assistance and  
100 ConnPACE programs under one contract.

101 [(c)] (b) Notwithstanding the provisions of section 17b-262 and any  
102 regulation adopted thereunder, on or after July 1, 2000, the  
103 Commissioner of Social Services may establish a schedule of maximum  
104 quantities of oral dosage units permitted to be dispensed at one time  
105 for prescriptions covered under the Medicaid, state-administered  
106 general assistance and general assistance programs based on a review  
107 of utilization patterns.

108 [(d)] (c) A plan or schedule established pursuant to subsection (a) [,  
109 or (b) [or (c)] of this section and any revisions thereto shall be  
110 submitted to the joint standing committees of the General Assembly  
111 having cognizance of matters relating to public health, human services

112 and appropriations and the budgets of state agencies. Within sixty  
113 days of receipt of such a plan or schedule or revisions thereto, said  
114 joint standing committees of the General Assembly shall approve or  
115 deny the plan or schedule or any revisions thereto and advise the  
116 commissioner of their approval or denial of the plan or schedule or  
117 any revisions thereto. The plan or schedule or any revisions thereto  
118 shall be deemed approved unless all committees vote to reject such  
119 plan or schedule or revisions thereto within sixty days of receipt of  
120 such plan or schedule or revisions thereto.

121 Sec. 4. Section 17b-493 of the general statutes is repealed and the  
122 following is substituted in lieu thereof:

123 A pharmacist shall, except as limited by subsection (c) of section 20-  
124 619, [and section 17b-274,] substitute a therapeutically and chemically  
125 equivalent generic drug product for a prescribed drug product when  
126 filling a prescription for an eligible person under the program.

127 Sec. 5. Subsection (c) of section 20-619 of the general statutes is  
128 repealed and the following is substituted in lieu thereof:

129 (c) A prescribing practitioner may specify in writing or by a  
130 telephonic or other electronic communication that there shall be no  
131 substitution for the specified brand name drug product in any  
132 prescription, provided [(1) in any prescription for a Medicaid, state-  
133 administered general assistance, general assistance or ConnPACE  
134 recipient, such practitioner specifies the basis on which the brand  
135 name drug product and dosage form is medically necessary in  
136 comparison to a chemically equivalent generic drug product  
137 substitution, and (2)] the phrase "BRAND MEDICALLY NECESSARY",  
138 shall be in the practitioner's handwriting on the prescription form or  
139 on an electronically-produced copy of the prescription form or, if the  
140 prohibition was communicated by telephonic or other electronic  
141 communication that did not reproduce the practitioner's handwriting,  
142 a statement to that effect appears on the form. The phrase "BRAND  
143 MEDICALLY NECESSARY" shall not be preprinted or stamped or

144 initialed on the form. If the practitioner specifies by telephonic or other  
145 electronic communication that did not reproduce the practitioner's  
146 handwriting that there shall be no substitution for the specified brand  
147 name drug product in any prescription for a Medicaid, state-  
148 administered general assistance, general assistance or ConnPACE  
149 recipient, written certification in the practitioner's handwriting bearing  
150 the phrase "BRAND MEDICALLY NECESSARY" shall be sent to the  
151 dispensing pharmacy within ten days.

152 Sec. 6. This act shall take effect July 1, 2001.

**Statement of Purpose:**

To eliminate the requirements imposed on physicians and pharmacies with respect to prior authorization of prescriptions and the substitution of generic prescription drugs.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*

Co-Sponsors: SEN. SOMMA, 16th Dist.; SEN. HARTLEY, 15th Dist.  
REP. BERGER, 73rd Dist.; REP. JARJURA, 74th Dist.  
REP. D'AMELIO, 71st Dist.; REP. BEAMON, 72nd Dist.  
REP. CONWAY, 75th Dist.