



General Assembly

Substitute Bill No. 7203

January Session, 2007

* _____ HB07203GL _____ 031907 _____ *

AN ACT CONCERNING PRESCRIPTION DRUG SUBSTITUTIONS.

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

1 Section 1. Section 20-619 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) For the purposes of section 20-579 and this section:

4 (1) "Brand name" means the proprietary or trade name selected by
5 the manufacturer and placed upon a drug product, its container, label
6 or wrapping at the time of packaging;

7 (2) "Generic name" means the established name designated in the
8 official United States Pharmacopoeia/National Formulary, official
9 Homeopathic Pharmacopoeia of the United States, or official United
10 States adopted names or any supplement to any of them;

11 (3) "Therapeutically equivalent" means drug products that are
12 approved under the provisions of the federal Food, Drug and
13 Cosmetics Act for interstate distribution and that will provide
14 essentially the same efficacy and toxicity when administered to an
15 individual in the same dosage regimen; and

16 (4) "Dosage form" means the physical formulation or medium in
17 which the product is intended, manufactured and made available for
18 use, including, but not limited to, tablets, capsules, oral solutions,

19 aerosol, inhalers, gels, lotions, creams, ointments, transdermals and
20 suppositories, and the particular form of any physical formulation or
21 medium that uses a specific technology or mechanism to control,
22 enhance or direct the release, targeting, systemic absorption, or other
23 delivery of a dosage regimen in the body.

24 (b) Except as limited by subsections (c) and (e) of this section, unless
25 the purchaser instructs otherwise, the pharmacist may substitute a
26 generic drug product with the same strength, quantity, dose and
27 dosage form as the prescribed drug product which is, in the
28 pharmacist's professional opinion, therapeutically equivalent. When
29 the prescribing practitioner is not reasonably available for consultation
30 and the prescribed drug does not use a unique delivery system
31 technology, the pharmacist may substitute an oral tablet, capsule or
32 liquid form of the prescribed drug as long as the form dispensed has
33 the same strength, dose and dose schedule and is therapeutically
34 equivalent to the drug prescribed. [The] Unless instructed otherwise
35 by the patient or a representative of the patient, the pharmacist shall
36 inform the patient or a representative of the patient, and the
37 practitioner of [the] a substitution, in writing, at the [earliest
38 reasonable] time the pharmacist dispenses a substitute prescription.

39 (c) A prescribing practitioner may specify in writing or by a
40 telephonic or other electronic communication that there shall be no
41 substitution for the specified brand name drug product in any
42 prescription, provided (1) in any prescription for a Medicaid, state-
43 administered general assistance, or ConnPACE recipient, such
44 practitioner specifies the basis on which the brand name drug product
45 and dosage form is medically necessary in comparison to a chemically
46 equivalent generic drug product substitution, and (2) the phrase
47 "BRAND MEDICALLY NECESSARY", shall be in the practitioner's
48 handwriting on the prescription form or on an electronically-produced
49 copy of the prescription form or, if the prohibition was communicated
50 by telephonic or other electronic communication that did not
51 reproduce the practitioner's handwriting, a statement to that effect
52 appears on the form. The phrase "BRAND MEDICALLY NECESSARY"

53 shall not be preprinted or stamped or initialed on the form. If the
54 practitioner specifies by telephonic or other electronic communication
55 that did not reproduce the practitioner's handwriting that there shall
56 be no substitution for the specified brand name drug product in any
57 prescription for a Medicaid, state-administered general assistance, or
58 ConnPACE recipient, written certification in the practitioner's
59 handwriting bearing the phrase "BRAND MEDICALLY NECESSARY"
60 shall be sent to the dispensing pharmacy within ten days.

61 (d) Each pharmacy shall post a sign in a location easily seen by
62 patrons at the counter where prescriptions are dispensed stating that,
63 "THIS PHARMACY MAY BE ABLE TO SUBSTITUTE A LESS
64 EXPENSIVE DRUG PRODUCT WHICH IS THERAPEUTICALLY
65 EQUIVALENT TO THE ONE PRESCRIBED BY YOUR DOCTOR
66 UNLESS YOU DO NOT APPROVE. IF THE PHARMACY INTENDS
67 TO SUBSTITUTE A LESS EXPENSIVE DRUG, IT SHALL PROVIDE
68 WRITTEN NOTICE OF THE SUBSTITUTION TO YOU." The printing
69 on the sign shall be in block letters not less than one inch in height.

70 (e) A pharmacist may substitute a drug product under subsection
71 (b) of this section only when there will be a savings in cost passed on
72 to the purchaser. The pharmacist shall disclose the amount of the
73 savings at the request of the patient.

74 (f) Except as provided in subsection (g) of this section, when a
75 pharmacist dispenses a substitute drug product as authorized by
76 subsection (b) of this section, the pharmacist shall label the
77 prescription container with the name of the dispensed drug product. If
78 the dispensed drug product does not have a brand name, the
79 prescription label shall indicate the generic name of the drug product
80 dispensed along with the name of the drug manufacturer or
81 distributor.

82 (g) A prescription dispensed by a pharmacist shall bear upon the
83 label the name of the drug in the container unless the prescribing
84 practitioner writes "DO NOT LABEL", or words of similar import, on

85 the prescription or so designates in an oral or electronic transmission
86 of the prescription.

87 (h) Neither the failure to instruct by the purchaser as provided in
88 subsection (b) of this section nor the fact that a sign has been posted as
89 provided in subsection (d) of this section shall be a defense on the part
90 of a pharmacist against a suit brought by any such purchaser.

91 (i) The commissioner, with the advice and assistance of the
92 commission, shall adopt regulations, in accordance with chapter 54, to
93 carry out the provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	20-619

GL *Joint Favorable Subst.*