



General Assembly

**Substitute Bill No. 654**

February Session, 2008

\* SB00654PH 031708 \*

**AN ACT CONCERNING THE AVAILABILITY OF PRESCRIBED  
ANTIPILEPTIC DRUGS.**

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 Section 20-619 of the general statutes is repealed and the  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 October 1, 2008*):

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 (5) "Epilepsy" means a neurological condition characterized by  
25 recurrent seizures;

26 (6) "Seizures" means a disturbance in the electrical activity of the  
27 brain; and

28 (7) "Antiepileptic drug" means a drug prescribed for the treatment  
29 of epilepsy or a drug used to prevent seizures.

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

43 (c) A prescribing practitioner may specify in writing or by a  
44 telephonic or other electronic communication that there shall be no  
45 substitution for the specified brand name drug product in any  
46 prescription, provided (1) in any prescription for a Medicaid, state-  
47 administered general assistance, or ConnPACE recipient, such  
48 practitioner specifies the basis on which the brand name drug product  
49 and dosage form is medically necessary in comparison to a chemically

50 equivalent generic drug product substitution, and (2) the phrase  
51 "BRAND MEDICALLY NECESSARY", shall be in the practitioner's  
52 handwriting on the prescription form or on an electronically-produced  
53 copy of the prescription form or, if the prohibition was communicated  
54 by telephonic or other electronic communication that did not  
55 reproduce the practitioner's handwriting, a statement to that effect  
56 appears on the form. The phrase "BRAND MEDICALLY NECESSARY"  
57 shall not be preprinted or stamped or initialed on the form. If the  
58 practitioner specifies by telephonic or other electronic communication  
59 that did not reproduce the practitioner's handwriting that there shall  
60 be no substitution for the specified brand name drug product in any  
61 prescription for a Medicaid, state-administered general assistance, or  
62 ConnPACE recipient, written certification in the practitioner's  
63 handwriting bearing the phrase "BRAND MEDICALLY NECESSARY"  
64 shall be sent to the dispensing pharmacy within ten days.

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

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

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

83 distributor.

84 (g) A prescription dispensed by a pharmacist shall bear upon the  
85 label the name of the drug in the container unless the prescribing  
86 practitioner writes "DO NOT LABEL", or words of similar import, on  
87 the prescription or so designates in an oral or electronic transmission  
88 of the prescription.

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

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

96 (j) Upon the initial filling or renewal of a prescription, if the patient  
97 or a representative of the patient or the patient's practitioner informs  
98 the pharmacy, in writing, that the prescription is used for the  
99 treatment of epilepsy, a pharmacist shall not substitute an antiepileptic  
100 drug or formulation of an antiepileptic drug, brand name or  
101 manufacturer of a generic name using the National Drug Code system  
102 for the treatment of epilepsy without consent of the patient's  
103 practitioner. For purposes of obtaining the consent of the patient's  
104 practitioner required for a drug substitution, a pharmacist shall notify  
105 the patient's practitioner via facsimile transmission. If the patient, the  
106 patient's representative or the patient's practitioner refuses the  
107 substitution, the pharmacist shall fill the prescription without such  
108 substitution or return the prescription to the patient or to such patient's  
109 representative for filling at another pharmacy. For purposes of this  
110 subsection, "pharmacy" includes a hospital-based pharmacy when  
111 such pharmacy is filling prescriptions for employees and outpatient  
112 care, and mail order pharmacies licensed by the state to distribute in  
113 state. "Pharmacy" does not include pharmacies in long-term care  
114 facilities.

115 Sec. 2. Subsection (a) of section 20-631 of the general statutes is  
116 repealed and the following is substituted in lieu thereof (*Effective*  
117 *October 1, 2008*):

118 (a) (1) One or more pharmacists licensed under this chapter who are  
119 determined eligible in accordance with subsection (c) of this section,  
120 and employed by a hospital may enter into a written protocol-based  
121 collaborative drug therapy management agreement with one or more  
122 physicians licensed under chapter 370 to manage the drug therapy of  
123 individual patients receiving inpatient services in a hospital licensed  
124 under chapter 368v, in accordance with subsections (b) to (d),  
125 inclusive, of this section and subject to the approval of the hospital.  
126 Each patient's collaborative drug therapy management shall be  
127 governed by a written protocol specific to that patient established by  
128 the treating physician in consultation with the pharmacist.

129 (2) One or more pharmacists licensed under this chapter who are  
130 determined eligible in accordance with subsection (c) of this section  
131 and employed by or under contract with a nursing home facility, as  
132 defined in section 19a-521, may enter into a written protocol-based  
133 collaborative drug therapy management agreement with one or more  
134 physicians licensed under chapter 370 to manage the drug therapy of  
135 individual patients receiving services in a nursing home facility, in  
136 accordance with subsections (b) to (d), inclusive, of this section and  
137 subject to the approval of the nursing home facility. Each patient's  
138 collaborative drug therapy management shall be governed by a  
139 written protocol specific to that patient established by the treating  
140 physician in consultation with the pharmacist. Each such protocol shall  
141 be reviewed and approved by the active organized medical staff of the  
142 nursing home in accordance with the requirements of section 19-13-  
143 D8t(i) of the Public Health Code.

144 (3) One or more pharmacists licensed under this chapter who are  
145 determined eligible in accordance with subsection (c) of this section  
146 and employed by or under contract with a hospital licensed under  
147 chapter 368v may enter into a written protocol-based collaborative

148 drug therapy management agreement with one or more physicians  
149 licensed under chapter 370 to manage the drug therapy of individual  
150 patients receiving outpatient hospital care or services for diabetes,  
151 asthma, hypertension, hyperlipidemia, osteoporosis, congestive heart  
152 failure or smoking cessation, including patients who qualify as  
153 targeted beneficiaries under the provisions of Section 1860D-  
154 4(c)(2)(A)(ii) of the federal Social Security Act, in accordance with  
155 subsections (b) to (d), inclusive, of this section and subject to the  
156 approval of the hospital. Each patient's collaborative drug therapy  
157 management shall be governed by a written protocol specific to that  
158 patient established by the treating physician in consultation with the  
159 pharmacist.

160 (4) One or more pharmacists licensed under this chapter, who are  
161 determined eligible in accordance with subsection (c) of section 20-  
162 631a and employed by or under contract with a licensed community  
163 pharmacy, as defined in section 20-631a, may enter into a written  
164 protocol-based collaborative drug therapy management agreement  
165 with one or more physicians licensed under chapter 370 to manage a  
166 patient's refills of prescribed medications. Each patient's collaborative  
167 drug therapy management shall be governed by a written protocol  
168 specific to that patient established by the treating physician in  
169 consultation with the pharmacist.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2008	20-619
Sec. 2	October 1, 2008	20-631(a)

**PH**            *Joint Favorable Subst.*