



General Assembly

January Session, 2011

**Committee Bill No. 5610**

LCO No. 3442

\*        HB05610PH        031511        \*

Referred to Committee on Public Health

Introduced by:  
(PH)

***AN ACT CONCERNING THE DUTIES OF A PHARMACIST WHEN  
FILLING A PRESCRIPTION USED FOR THE TREATMENT OF  
EPILEPSY OR PREVENTION OF SEIZURES.***

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 Section 20-619 of the general statutes is repealed and the  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, 2011*):

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]  
9       Pharmacopoeia-National Formulary, official Homeopathic  
10       Pharmacopoeia of the United States, or official United States [adopted  
11       names] Adopted Names or any supplement to any of [them] said  
12       publications;

13       (3) "Therapeutically equivalent" means drug products that are

14 approved under the provisions of the federal Food, Drug and  
15 [Cosmetics] Cosmetic Act for interstate distribution and that will  
16 provide essentially the same efficacy and toxicity when administered  
17 to an individual in the same dosage regimen; [and]

18 (4) "Dosage form" means the physical formulation or medium in  
19 which the product is intended, manufactured and made available for  
20 use, including, but not limited to, tablets, capsules, oral solutions,  
21 aerosol, inhalers, gels, lotions, creams, ointments, transdermals and  
22 suppositories, and the particular form of any physical formulation or  
23 medium that uses a specific technology or mechanism to control,  
24 enhance or direct the release, targeting, systemic absorption, or other  
25 delivery of a dosage regimen in the body;

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

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

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

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

45 (c) A prescribing practitioner may specify in writing or by a  
46 telephonic or other electronic communication that there shall be no  
47 substitution for the specified brand name drug product in any  
48 prescription, provided (1) in any prescription for a Medicaid, state-  
49 administered general assistance, or ConnPACE recipient, such  
50 practitioner specifies the basis on which the brand name drug product  
51 and dosage form is medically necessary in comparison to a chemically  
52 equivalent generic name drug product substitution, and (2) the phrase  
53 "BRAND MEDICALLY NECESSARY", shall be in the practitioner's  
54 handwriting on the prescription form or on an electronically-produced  
55 copy of the prescription form or, if the prohibition was communicated  
56 by telephonic or other electronic communication that did not  
57 reproduce the practitioner's handwriting, a statement to that effect  
58 appears on the form. The phrase "BRAND MEDICALLY NECESSARY"  
59 shall not be preprinted or stamped or initialed on the form. If the  
60 practitioner specifies by telephonic or other electronic communication  
61 that did not reproduce the practitioner's handwriting that there shall  
62 be no substitution for the specified brand name drug product in any  
63 prescription for a Medicaid, state-administered general assistance, or  
64 ConnPACE recipient, written certification in the practitioner's  
65 handwriting bearing the phrase "BRAND MEDICALLY NECESSARY"  
66 shall be sent to the dispensing pharmacy [within] not later than ten  
67 days after the date of such communication.

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

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

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

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

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

96 (i) Upon the initial filling or renewal of a prescription that contains a  
97 statistical information code based upon the most recent edition of the  
98 International Classification of Diseases indicating the prescribed drug  
99 is used for the treatment of epilepsy or to prevent seizures, a  
100 pharmacist shall not: (1) Substitute for the prescribed drug another  
101 antiepileptic drug or formulation of another antiepileptic drug,  
102 irrespective of whether such other antiepileptic drug is a brand name  
103 drug product or a generic name drug product, or (2) fill the  
104 prescription by using a different drug manufacturer or distributor of  
105 the prescribed drug, unless the pharmacist provides prior notice of  
106 such substitution or use of a different drug manufacturer or distributor  
107 to, and obtains the written consent of, the patient's prescribing  
108 practitioner. For purposes of obtaining the consent of the patient's  
109 prescribing practitioner required by this subsection, a pharmacist shall  
110 notify the prescribing practitioner via electronic mail or facsimile  
111 transmission. If the prescribing practitioner does not provide the

112 necessary consent, the pharmacist shall fill the prescription without  
 113 such substitution or use of a different drug manufacturer or distributor  
 114 or return the prescription to the patient or to the patient's  
 115 representative for filling at another pharmacy. If a pharmacist is  
 116 unable to contact the patient's prescribing practitioner after making  
 117 reasonable efforts to do so, such pharmacist may exercise professional  
 118 judgment in refilling a prescription in accordance with the provisions  
 119 of subsection (b) of section 20-616. For purposes of this subsection,  
 120 "pharmacy" means a place of business where drugs and devices may  
 121 be sold at retail and for which a pharmacy license was issued pursuant  
 122 to section 20-594, including a hospital-based pharmacy when such  
 123 pharmacy is filling prescriptions for employees and outpatient care,  
 124 and a mail order pharmacy licensed by this state to distribute in this  
 125 state. "Pharmacy" does not include a pharmacy serving patients in a  
 126 long-term care facility, other institutional facility or a pharmacy that  
 127 provides prescriptions for inpatient hospitals.

128 [(i)] (j) The commissioner, with the advice and assistance of the  
 129 commission, shall adopt regulations, in accordance with chapter 54, to  
 130 carry out the provisions of this section.

131 Sec. 2. Section 17b-493 of the general statutes is repealed and the  
 132 following is substituted in lieu thereof (*Effective October 1, 2011*):

133 A pharmacist shall, except as limited by [subsection (c)] subsections  
 134 (c), (e) and (i) of section 20-619, as amended by this act, and section  
 135 17b-274, substitute a therapeutically and chemically equivalent generic  
 136 drug product for a prescribed drug product when filling a prescription  
 137 for an eligible person under the program.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	20-619
Sec. 2	<i>October 1, 2011</i>	17b-493

**PH**      *Joint Favorable*