

House Bill 1357

By: Representatives Stephens of the 164th, Maxwell of the 17th, Parrish of the 156th, Meadows of the 5th, Carter of the 159th, and others

A BILL TO BE ENTITLED
AN ACT

To amend Article 5 of Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to prescription drugs, so as to eliminate redundant language relating to the practice of medicine; to provide for the dispensing of therapeutically equivalent drugs by a pharmacist to a patient for purposes of formulary compliance if approved by the ordering practitioner; to provide for notice to the ordering practitioner of the substitution; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 5 of Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to prescription drugs, is amended by striking Code Section 26-4-81, relating to substitution of generic drugs for brand name drugs, and inserting in its place the following:

"26-4-81.

(a) In accordance with this Code section, a pharmacist may substitute a drug with the same generic name in the same strength, quantity, dose, and dosage form as the prescribed brand name drug product which is, in the pharmacist's reasonable professional opinion, pharmaceutically equivalent.

(b) If a practitioner of the healing arts prescribes a drug by its generic name, the pharmacist shall dispense the lowest retail priced drug product which is in stock and which is, in the pharmacist's reasonable professional opinion, pharmaceutically equivalent.

(c) Substitutions as provided for in subsections (a) and (b) of this Code section are authorized for the express purpose of making available to the consumer the lowest retail priced drug product which is in stock and which is, in the pharmacist's reasonable professional opinion, both therapeutically equivalent and pharmaceutically equivalent.

(d) Whenever a substitution is made, the pharmacist shall record on the original prescription the fact that there has been a substitution and the identity of the dispensed drug

product and its manufacturer. Such prescription shall be made available for inspection by the board or its representative in accordance with the rules of the board.

(e) The substitution of any drug by a registered pharmacist pursuant to this Code section does not constitute the practice of medicine.

(f) A patient for whom a prescription drug order is intended may instruct a pharmacist not to substitute a generic name drug in lieu of a brand name drug.

(g) A practitioner of the healing arts may instruct the pharmacist not to substitute a generic name drug in lieu of a brand name drug by including the words 'brand necessary' in the body of the prescription. When a prescription is a hard copy prescription drug order, such indication of brand necessary must be in the practitioner's own handwriting and shall not be printed, applied by rubber stamp, or any such similar means.

~~(h) The substitution of any drug by a registered pharmacist pursuant to this Code section does not constitute the practice of medicine."~~

SECTION 2.

Said article is further amended by inserting a new Code section after Code Section 26-4-81, relating to substitution of generic drugs for brand name drugs, to read as follows:

"26-4-81.1.

(a) In accordance with this Code section, a pharmacist may substitute a therapeutically equivalent drug for purposes of formulary compliance with the patient's insurance company, carrier, or similar third-party payor plan.

(b) If a practitioner of the healing arts prescribes a drug, but has indicated on the prescription that a therapeutically equivalent drug may be substituted for formulary compliance with the patient's insurance company, carrier, or similar third-party payor plan, the pharmacist shall dispense the therapeutically equivalent drug if it is in the same therapeutic class as the prescribed drug. Such indication shall be made by the practitioner's initials or signature on a preprinted prescription form clearly specifying that a therapeutically equivalent drug may be substituted for the prescribed drug for purposes of formulary compliance. The board shall be authorized to promulgate regulations to establish requirements for preprinted prescription drug order forms to clearly provide for such indication.

(c) The pharmacist shall, within 24 hours of dispensing a therapeutically equivalent drug substitution, notify the ordering practitioner of the substitution and the name of the therapeutically equivalent drug dispensed. Further, the pharmacist shall, whenever a substitution is made pursuant to this Code section, record on the original prescription the fact that there has been a therapeutically equivalent substitution and the identity of the

1 dispensed drug product and its manufacturer. Such prescription shall be made available
2 for inspection by the board or its representative in accordance with the rules of the board.

3 (d) Substitutions made pursuant to this Code section are authorized for the express purpose
4 of dispensing drugs which are included in the approved formulary of the patient's insurance
5 company, carrier, or similar third-party payor plan.

6 (e) The substitution of any drug by a registered pharmacist pursuant to this Code section
7 does not constitute the practice of medicine."

8 **SECTION 3.**

9 All laws and parts of laws in conflict with this Act are repealed.