House Bill 127 (RULES COMMITTEE SUBSTITUTE)

By: Representatives Byrd of the 20th, Jerguson of the 22nd, Ehrhart of the 36th, Rynders of the 152nd, and Hill of the 21st

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 change certain provisions relating to the substitution of generic drugs; to eliminate redundant language relating to the practice of medicine; to prohibit the substitution of anti-epileptic drugs except under certain conditions; 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 revising Code Section 26-4-81, relating to substitution of generic drugs for brand name drugs, as follows:

"26-4-81.

(a) In accordance with this Code section and except as otherwise provided in Code Section 26-4-81.1, 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)~~(e) 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)~~(f) 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)~~(g) 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 to read as follows:

"26-4-81.1.

(a) As used in this Code section, the term:

(1) 'Anti-epileptic drug' means:

(A) Any drug prescribed for the treatment of epilepsy; and

(B) A drug used to treat or prevent seizures.

(2) 'Epilepsy' means a neurological condition characterized by recurrent seizures.

(3) 'Interchange' means the substitution of one version of a drug for another, including a generic version for the prescribed brand version, a different formulation of the prescribed version, and a different drug for the product prescribed.

(4) 'Seizure' means an acute clinical change secondary to a brief disturbance in the electrical activity of the brain.

(b) A pharmacist shall not interchange an anti-epileptic drug or formulation of an anti-epileptic drug without prior notification to and written consent of the prescribing physician; provided, however, that a pharmacist may substitute a generic version by one manufacturer for a generic version by another manufacturer if both such versions are AB rated by the federal Food and Drug Administration."

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.