

The Senate Health and Human Services Committee offered the following substitute to HB 127:

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 certain 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.

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

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

5 ~~(g)~~(f) A practitioner of the healing arts may instruct the pharmacist not to substitute a  
 6 generic name drug in lieu of a brand name drug by including the words 'brand necessary'  
 7 in the body of the prescription. When a prescription is a hard copy prescription drug order,  
 8 such indication of brand necessary must be in the practitioner's own handwriting and shall  
 9 not be ~~printed~~ preprinted, applied by rubber stamp, or any such similar means. A  
 10 practitioner of the healing arts may specify a generic manufacturer by indicating such  
 11 designation on the prescription. An indication by a practitioner of the healing arts  
 12 described in this subsection shall apply to all refills of such prescription.

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

## 15 SECTION 2.

16 Said article is further amended by inserting a new Code section to read as follows:

17 "26-4-81.1.

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

19 (1) 'Antiepileptic drug' means:

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

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

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

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

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

28 (b) A pharmacist shall not:

29 (1) Engage in drug product selection or substitution of any pharmaceutical that is  
 30 prescribed to inhibit or prevent immune system activity as part of immunosuppressive  
 31 therapy for a patient who has received an organ or tissue transplant that might increase  
 32 the probability of the rejection of such transplanted organ or tissue; or

33 (2) Interchange an antiepileptic drug or formulation of an antiepileptic drug  
 34 without the prior consent of the prescribing physician as provided in subsection (f) of Code  
 35 Section 26-4-81. When permitted by this Code section, a pharmacist may substitute a

1 generic version by one manufacturer for a generic version by another manufacturer if both  
2 such versions are AB rated by the federal Food and Drug Administration.

3 (c) This Code section shall not apply to a pharmacist who is a member of the staff of and  
4 dispenses drugs from the pharmacy of an institution classified as a hospital and issued a  
5 permit as an institution under Code Section 31-7-1."

6 **SECTION 3.**

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