HOUSE BILL 633

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

John A. Heaton

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO PRESCRIPTION DRUGS; ALLOWING A PHARMACIST TO DISPENSE A THERAPEUTICALLY EQUIVALENT DRUG; AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 26-3-3 NMSA 1978 (being Laws 1976, Chapter 60, Section 4, as amended) is amended to read:

"26-3-3. DRUG PRODUCT SELECTION PERMITTED--CONDITIONS--EXCEPTION FOR PROHIBITION--LABELING.--

A. Upon receipt of a prescription written by a licensed practitioner who may prescribe drugs for a drug for which one or more multiple-source drugs are recognized, listed as final determinations and published in the federal register by the federal department of health and human services, a pharmacist may dispense any one of the drugs that satisfies the

final determinations so recognized and listed by the federal department of health and human services [~~and is sold at a lower cost than the drug or drugs listed in the prescription~~].

B. Upon receipt of a prescription written by a licensed practitioner for a drug that [~~appears on~~] has been approved by the federal food and drug [~~administration's approved prescription drug products with therapeutic equivalence evaluation list as supplemented~~] administration, a pharmacist may dispense [~~any of the~~] a clinically effective and safe therapeutically equivalent [~~drugs that appears on that list and which is lower in cost than the drug or drugs listed in the prescription~~] drug.

C. Drug product selection shall be permitted only under circumstances and conditions set forth in Subsections A and B of this section unless the licensed practitioner prescribing prohibits drug product selection. A licensed practitioner shall prohibit drug product selection by writing with his hand the words "no substitution" or the diminution "no sub" on the face of a prescription.

D. If drug product selection occurs as permitted in Subsections A and B of this section, the pharmacist shall indicate on the label of the dispensed container the brand of drug prescribed and the name of the drug dispensed.

E. If a pharmacist [~~changes~~] substitutes the prescribed drug [~~dispensed for a patient at a point in time~~]

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~~after the drug product selection has occurred~~] with a therapeutically equivalent drug, he shall notify, within seventy-two hours, the prescribing practitioner and identify the [~~most recently~~] therapeutically equivalent drug dispensed.

F. A pharmacist [~~may not select a therapeutically equivalent drug unless he passes~~] shall pass on to the patient all savings between the net cost of the product prescribed and the product dispensed.

G. For purposes of this section, "multiple-source drug" means a drug marketed or sold by two or more manufacturers, formulators or labelers.

H. For purposes of this section, "therapeutically equivalent" means [~~drug products which have the same amount of the active drug in the same dosage form which when administered can be expected to provide the same therapeutic effect~~] a drug product that contains a different therapeutic agent than the drug in question, but is of the same pharmacological or therapeutic class and can be expected to have a similar therapeutic effect when administered to a patient in a therapeutically equivalent dosage."

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