

SECOND REGULAR SESSION

HOUSE BILL NO. 2395

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE STEPHENS (128).

6280H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 338.056, RSMo, and to enact in lieu thereof one new section relating to generic drug substitutions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 338.056, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 338.056, to read as follows:

338.056. 1. Except as provided in subsection 2 of this section, the pharmacist filling prescription orders for drug products prescribed by trade or brand name may select another drug product with the same active chemical ingredients of the same strength, quantity and dosage form, and of the same generic drug or interchangeable biological product type, as determined by the United States Adopted Names and accepted by the Federal Food and Drug Administration. Selection pursuant to this section is within the discretion of the pharmacist, except as provided in subsection 2 of this section. The pharmacist who selects the drug or interchangeable biological product to be dispensed pursuant to this section shall assume the same responsibility for selecting the dispensed drug or biological product as would be incurred in filling a prescription for a drug or interchangeable biological product prescribed by generic or interchangeable biologic name. The pharmacist shall not select a drug or interchangeable biological product pursuant to this section unless the product selected costs the patient less than the prescribed product.

2. A pharmacist who receives a prescription for a brand name drug or biological product may ~~may[, unless requested otherwise by the purchaser,]~~ select a less expensive generically equivalent or interchangeable biological product ~~[under the following circumstances:~~

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 ~~————(1) If a written prescription is involved, the prescription form used shall have two~~
18 ~~signature lines at opposite ends at the bottom of the form. Under the line at the right side shall~~
19 ~~be clearly printed the words: “Dispense as Written”. Under the line at the left side shall be~~
20 ~~clearly printed the words “Substitution Permitted”. The prescriber shall communicate the~~
21 ~~instructions to the pharmacist by signing the appropriate line]~~ **unless requested otherwise by**
22 **the patient or the prescribing practitioner who indicates that substitution is prohibited or**
23 **clearly displays “brand medically necessary”, “dispense as written”, “do not substitute”,**
24 **or words of similar import on the prescription.** No prescription shall be valid without the
25 signature of the prescriber on one of these lines[;

26 ~~————(2)] .~~

27 **3.** If an oral prescription is involved, the practitioner or the practitioner’s agent,
28 communicating the instructions to the pharmacist, shall instruct the pharmacist as to whether or
29 not a therapeutically equivalent generic drug or interchangeable biological product may be
30 substituted. The pharmacist shall note the instructions on the file copy of the prescription.

31 ~~[3. All prescriptions written in the state of Missouri by practitioners authorized to write~~
32 ~~prescriptions shall be on forms which comply with subsection 2 hereof.]~~

33 **4.** Notwithstanding the provisions of subsection 2 of this section to the contrary, a
34 pharmacist may fill a prescription for a brand name drug by substituting a generically equivalent
35 drug or interchangeable biological product when substitution is allowed in accordance with the
36 laws of the state where the prescribing practitioner is located.

37 **5.** Violations of this section are infractions.

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