

BILL ANALYSIS

C.S.H.B. 833
By: Hochberg
Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, the Texas Pharmacy Act, Section 562.009 (Occupations Code) requires a pharmacist to either inform patients of their right to refuse generic equivalent substitution or display a sign that informs patients of their right to refuse a generic substitution. Although in many non-workers' compensation insurance plans the patient is required or permitted to pay a co-payment and the patient may refuse a generic substitution in those plans, the Texas Workers Compensation Commission's position is that a claimant may not do so in the Texas Workers' Compensation system. The Pharmacy Board has taken the position that the workers' compensation patient does have the right to refuse a generic substitution.

C.S.H.B. 833 would amend the Labor Code to clarify that a workers compensation claimant has the right to refuse a generic drug substitution, but may not seek reimbursement for any additional cost over the cost of the generic drug.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Workers' Compensation Commission SECTION 2 (Section 408.028 (e), Labor Code) of this bill.

ANALYSIS

C.S.H.B. 833 amends the Labor Code by providing that the Texas Workers' Compensation Commission will adopt a rule to allow an employee to purchase a brand name drug rather than a generic pharmaceutical medication or over-the-counter alternative to a prescription medication. This bill provides that the employee will be responsible for paying the difference between the cost of the generic and the brand name pharmaceutical medication. The employee who opts to pay this difference may not seek reimbursement for the difference from the insurance carrier, and may not access medical dispute resolution under Chapter 413 of this subtitle. The bill also provides that pharmacists are not subject to administrative violations if they accept additional payments from the employee. This bill states that the Texas Workers' Compensation Commission will adopt rules proposed by this Act no later than March 1, 2004.

EFFECTIVE DATE

September 1, 2003

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 833 modifies the original H.B. 833 by clarifying that the injured worker cannot seek reimbursement from the insurance carrier for the difference and cannot seek medical dispute resolution at the Texas Workers' Compensation Commission. The substitute also provides that pharmacist are not

subject to administrative violations if they accept these additional payments from injured workers.