

By: Capelo

H.B. No. 1932

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of the practice of pharmacy and the dispensing of certain drugs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 562, Occupations Code, Section 562.015 is amended to read as follows:

Sec. 562.015. DISPENSING DIRECTIVE [~~COMPLIANCE WITH FEDERAL LAW~~]. (a) The board shall adopt rules to provide a dispensing directive to instruct pharmacists on the manner in which to dispense a drug according to the contents of a prescription. The rules adopted under this section must:

(1) permit the prescription form to either:

(A) contain the handwritten phrase "brand necessary" or "brand medically necessary" on the prescription form to prohibit the substitution of a generically equivalent drug for a brand name drug; or

(B) contain two signature lines of equal prominence, side by side, at the bottom of the form with the words "product selection permitted" clearly printed under one signature line and "dispense as written" under the other signature line, with the physician or practitioner communicating dispensing instructions by signing the appropriate line. By signing the line with "dispense as written" printed underneath the physician or practitioner prohibits the substitution of a generically

1 equivalent drug for a brand name drug;

2 ~~[(1) require the use of the phrase "brand necessary"~~
3 ~~or "brand medically necessary" on a prescription form to prohibit~~
4 ~~the substitution of a generically equivalent drug for a brand name~~
5 ~~drug;]~~

6 (2) be in a format that protects confidentiality as
7 required by the Health Insurance Portability and Accountability Act
8 of 1996 (29 U.S.C. Section 1181 et seq.) and its subsequent
9 amendments;

10 (3) comply with federal and state law, including
11 rules, with regard to formatting and security requirements; and

12 (4) ~~[be developed to coordinate with 42 C.F.R. Section~~
13 ~~447.331(c); and~~

14 ~~[(5)]~~ include an exemption for electronic
15 prescriptions as provided by Section 562.016 ~~[Subsection (b)]~~.

16 ~~[(b) The board shall provide an exemption from the directive~~
17 ~~adopted under this section for prescriptions transmitted~~
18 ~~electronically. The board may regulate the use of electronic~~
19 ~~prescriptions in the manner provided by federal law, including~~
20 ~~rules.]~~

21 SECTION 2. Subchapter A, Chapter 562, Occupations Code, is
22 amended by adding Section 562.016 to read as follows:

23 Sec. 562.016. DISPENSING DIRECTIVE; ELECTRONIC
24 PRESCRIPTIONS. (a) To prohibit the substitution of a generically
25 equivalent drug for a brand name drug, a prescription transmitted
26 electronically, which does not include a direct image of a written
27 prescription transmitted by facsimile, need merely contain a clear

1 indication within it that generic substitution is not permitted.
2 The use of check boxes or other similar notations may be used to
3 indicate that generic substitution is not permitted.

4 (b) The board shall not require that prescriptions
5 transmitted electronically use a particular word, phrase or phrases
6 to prohibit the substitution of a generically equivalent drug.

7 SECTION 3. This Act takes effect September 1, 2003.