

## **BILL ANALYSIS**

C.S.H.B. 836  
By: Gattis  
Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Current law allows a pharmacist to fill a drug prescription with a generically equivalent compound prior to the patient picking up the medicine. Also, current law allows a patient to refuse the substitution made by the pharmacy. In some cases, the patient is unaware that the prescription has been substituted. Additionally, most patients are not equipped with the necessary medical knowledge to make a determination as to whether their physician specifically sought to have the prescription be filled with a certain drug. In other words the substitution may be contrary to a physician's treatment plan. Further, it is also unlikely that a patient will decline the substitution after it has been filled because it would require an additional wait as the prescription is processed for a second time.

CSHB 836 seeks to enhance communication between a pharmacist and a patient by allowing the patient the choice, prior to filling of the prescription, to state their drug preference and provide the consumer with opportunity to consult with their physician as to drug preference. This bill also allows patients to pay the cash price for a prescription if the cash price is less than a person's co-pay price.

Some pharmacists have already incorporated the "best practice" methods set forth in CSHB 836. Passage of the bill would extend these "best practices" to all patients and thereby enhance consumer choice and communication between a pharmacist and the patient.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

SECTION 1. Subchapter A, Chapter 562, Occupations Code, is amended by adding Section 562.003 to read as follows: Sec. 562.003. DISCLOSURE OF PRICE; PATIENT'S OPTION. If the price of a drug to a patient is lower than the amount of the patient's copayment under the patient's prescription drug insurance plan, the pharmacist shall offer the patient the option of paying for the drug at the lower price instead of paying the amount of the copayment.

SECTION 2. Section 562.009 (a), Occupations Code, is amended to provide that before delivery of a prescription for a generically equivalent drug, a pharmacist must personally, or through the pharmacist's agent or employee inform the patient or the patient's agent that a less expensive generically equivalent drug is available for the brand prescribed; and ask the patient or the patient's agent to choose between the generically equivalent drug and the brand prescribed. This bill removes the statutory notice provision.

SECTION 3. Repeals Section 562.009 (b), Occupations Code.

SECTION 4. This Act takes effect September 1, 2005.

### **EFFECTIVE DATE**

September 1, 2005.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

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CSHB 836 rescinds the requirement for the pharmacist to inform the patient or patient's agent of the price the patient would be required to pay for the generically equivalent drug and the brand prescription prescribed. Additionally, this bill removes the requirement in current law to post a sign in Section 56.009 (a) (2) Occupations Code. CSHB 836 also repeals Section 562.009(b), Occupations Code, which was the sign posting provision. The committee substitute requires that before delivery of a prescription of a generically equivalent drug, a pharmacist inform the patient that a less expensive generically equivalent drug is available for the brand prescribed; and ask the patient to choose between the generically equivalent drug and the brand prescribed.