

AN ACT

relating to certain requirements concerning the filling of a prescription.

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

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 read as follows:

(a) Before delivery of a prescription for a generically equivalent drug, a [A] pharmacist must ~~[who selects a generically equivalent drug as authorized by this subchapter shall:~~

~~[(1)]~~ personally, or through the pharmacist's agent or employee:

(1) [~~and before delivery of a generically equivalent drug]~~ inform the patient or the patient's agent that a less expensive generically equivalent drug is available ~~[has been substituted]~~ for the brand prescribed; and

(2) ask ~~[that]~~ the patient or the patient's agent to

1 choose between the generically equivalent drug and the brand
2 prescribed. ~~[is entitled to refuse that substitution; or~~
3 ~~(2) display, in a prominent place that is in clear~~
4 ~~public view where prescription drugs are dispensed, a sign in block~~
5 ~~letters not less than one inch in height that reads, in both English~~
6 ~~and Spanish.~~

7 ~~["TEXAS LAW ALLOWS A LESS EXPENSIVE GENERICALLY~~
8 ~~EQUIVALENT DRUG TO BE SUBSTITUTED FOR CERTAIN BRAND~~
9 ~~NAME DRUGS UNLESS YOUR PHYSICIAN DIRECTS OTHERWISE.~~
10 ~~YOU HAVE A RIGHT TO REFUSE SUCH SUBSTITUTION. CONSULT~~
11 ~~YOUR PHYSICIAN OR PHARMACIST CONCERNING THE~~
12 ~~AVAILABILITY OF A SAFE, LESS EXPENSIVE DRUG FOR YOUR~~
13 ~~USE."]~~

14 SECTION 3. Section 562.009, Occupations Code, is amended by
15 adding Subsection (a-1) to read as follows:

16 (a-1) In addition to the requirements of Subsection (a), a
17 pharmacist must display, in a prominent place that is in clear
18 public view where prescription drugs are dispensed, a sign in block
19 letters not less than one inch in height that reads, in both English
20 and Spanish:

21 "TEXAS LAW REQUIRES A PHARMACIST TO INFORM YOU IF
22 A LESS EXPENSIVE GENERICALLY EQUIVALENT DRUG IS
23 AVAILABLE FOR CERTAIN BRAND NAME DRUGS AND TO ASK YOU
24 TO CHOOSE BETWEEN THE GENERIC AND THE BRAND NAME DRUG.
25 YOU HAVE A RIGHT TO ACCEPT OR REFUSE THE GENERICALLY
26 EQUIVALENT DRUG."

27 SECTION 4. Section 562.009(b), Occupations Code, is amended

to read as follows:

(b) A pharmacy is not required to comply with the provisions of Subsection (a):

(1) in the case of the refill of a prescription for which the pharmacy previously complied with Subsection (a) with respect to the same patient or patient's agent; or

(2) if the patient's physician or physician's agent advises the pharmacy that:

(A) the physician has informed the patient or the patient's agent that a less expensive generically equivalent drug is available for the brand prescribed; and

(B) the patient or the patient's agent has chosen either the brand prescribed or the less expensive generically equivalent drug. ~~[To comply with Subsection (a)(2), only one sign is required to be displayed in a pharmacy.]~~

SECTION 5. Section 562.009, Occupations Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) A pharmacy that supplies a prescription by mail is considered to have complied with the provisions of Subsection (a) if the pharmacy includes on the prescription order form completed by the patient or the patient's agent language that clearly and conspicuously:

(1) states that if a less expensive generically equivalent drug is available for the brand prescribed, the patient or the patient's agent may choose between the generically equivalent drug and the brand prescribed; and

(2) allows the patient or the patient's agent to

1 indicate the choice of the generically equivalent drug or the brand
2 prescribed.

3 (d) If the patient or the patient's agent fails to indicate
4 otherwise to a pharmacy on the prescription order form under
5 Subsection (c), the pharmacy may dispense a generically equivalent
6 drug.

7 SECTION 6. (a) The Texas State Board of Pharmacy shall
8 prescribe and distribute the sign required by Section 562.009(a-1),
9 Occupations Code, as added by this Act. A pharmacist is not
10 required to display the sign until the pharmacist receives the sign
11 from the Texas State Board of Pharmacy.

12 (b) Not later than January 1, 2006, a pharmacy that supplies
13 a prescription by mail must comply with the provisions of Section
14 562.009(c), Occupations Code, as added by this Act, for each
15 prescription that the pharmacy supplies by mail.

16 SECTION 7. This Act takes effect September 1, 2005.

H.B. No. 836

President of the Senate

Speaker of the House

I certify that H.B. No. 836 was passed by the House on April 14, 2005, by a non-record vote; that the House refused to concur in Senate amendments to H.B. No. 836 on May 17, 2005, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 836 on May 27, 2005, by a non-record vote.

Chief Clerk of the House

H.B. No. 836

I certify that H.B. No. 836 was passed by the Senate, with amendments, on May 10, 2005, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 836 on May 29, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor