

1-1 By: Gattis, Hopson, et al. (Senate Sponsor - Ogden) H.B. No. 836
1-2 (In the Senate - Received from the House April 18, 2005;
1-3 April 19, 2005, read first time and referred to Committee on Health
1-4 and Human Services; April 29, 2005, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 7,
1-6 Nays 0; April 29, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 836 By: Deuell

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to certain requirements concerning the filling of a
1-11 prescription.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter A, Chapter 562, Occupations Code, is
1-14 amended by adding Section 562.003 to read as follows:

1-15 Sec. 562.003. DISCLOSURE OF PRICE; PATIENT'S OPTION. If
1-16 the price of a drug to a patient is lower than the amount of the
1-17 patient's copayment under the patient's prescription drug insurance
1-18 plan, the pharmacist shall offer the patient the option of paying
1-19 for the drug at the lower price instead of paying the amount of the
1-20 copayment.

1-21 SECTION 2. Section 562.009(a), Occupations Code, is amended
1-22 to read as follows:

1-23 (a) Before delivery of a prescription for a generically
1-24 equivalent drug, a [A] pharmacist must [who selects a generically
1-25 equivalent drug as authorized by this subchapter shall:

1-26 ~~[(1)]~~ personally, or through the pharmacist's agent or
1-27 employee:

1-28 (1) ~~[, and before delivery of a generically equivalent~~
1-29 ~~drug]~~ inform the patient or the patient's agent that a less
1-30 expensive generically equivalent drug is available ~~[has been~~
1-31 ~~substituted]~~ for the brand prescribed; and

1-32 (2) ask [that] the patient or the patient's agent to
1-33 choose between the generically equivalent drug and the brand
1-34 prescribed. ~~[is entitled to refuse that substitution; or~~

1-35 ~~[(2) display, in a prominent place that is in clear~~
1-36 ~~public view where prescription drugs are dispensed, a sign in block~~
1-37 ~~letters not less than one inch in height that reads, in both English~~
1-38 ~~and Spanish:~~

1-39 ~~["TEXAS LAW ALLOWS A LESS EXPENSIVE GENERICALLY~~
1-40 ~~EQUIVALENT DRUG TO BE SUBSTITUTED FOR CERTAIN BRAND~~
1-41 ~~NAME DRUGS UNLESS YOUR PHYSICIAN DIRECTS OTHERWISE.~~
1-42 ~~YOU HAVE A RIGHT TO REFUSE SUCH SUBSTITUTION. CONSULT~~
1-43 ~~YOUR PHYSICIAN OR PHARMACIST CONCERNING THE~~
1-44 ~~AVAILABILITY OF A SAFE, LESS EXPENSIVE DRUG FOR YOUR~~
1-45 ~~USE."]~~

1-46 SECTION 3. Section 562.009, Occupations Code, is amended by
1-47 adding Subsection (a-1) to read as follows:

1-48 (a-1) In addition to the requirements of Subsection (a), a
1-49 pharmacist must display, in a prominent place that is in clear
1-50 public view where prescription drugs are dispensed, a sign in block
1-51 letters not less than one inch in height that reads, in both English
1-52 and Spanish:

1-53 "TEXAS LAW REQUIRES A PHARMACIST TO INFORM YOU IF
1-54 A LESS EXPENSIVE GENERICALLY EQUIVALENT DRUG IS
1-55 AVAILABLE FOR CERTAIN BRAND NAME DRUGS AND TO ASK YOU
1-56 TO CHOOSE BETWEEN THE GENERIC AND THE BRAND NAME DRUG.
1-57 YOU HAVE A RIGHT TO ACCEPT OR REFUSE THE GENERICALLY
1-58 EQUIVALENT DRUG."

1-59 SECTION 4. Section 562.009(b), Occupations Code, is amended
1-60 to read as follows:

1-61 (b) A pharmacy is not required to comply with the provisions
1-62 of Subsection (a):

1-63 (1) in the case of the refill of a prescription for

2-1 which the pharmacy previously complied with Subsection (a) with
2-2 respect to the same patient or patient's agent; or

2-3 (2) if the patient's physician or physician's agent
2-4 advises the pharmacy that:

2-5 (A) the physician has informed the patient or the
2-6 patient's agent that a less expensive generically equivalent drug
2-7 is available for the brand prescribed; and

2-8 (B) the patient or the patient's agent has chosen
2-9 either the brand prescribed or the less expensive generically
2-10 equivalent drug. [To comply with Subsection (a)(2), only one sign
2-11 is required to be displayed in a pharmacy.]

2-12 SECTION 5. Section 562.009, Occupations Code, is amended by
2-13 adding Subsection (c) to read as follows:

2-14 (c) A pharmacy that supplies a prescription by mail is
2-15 considered to have complied with the provisions of Subsection (a)
2-16 if the pharmacy includes on the prescription order form completed
2-17 by the patient or patient's agent language that clearly and
2-18 conspicuously:

2-19 (1) states that if a less expensive generically
2-20 equivalent drug is available for the brand prescribed, the patient
2-21 or the patient's agent may choose between the generically
2-22 equivalent drug and the brand prescribed; and

2-23 (2) allows the patient or the patient's agent to
2-24 indicate the choice of the generically equivalent drug or the brand
2-25 prescribed.

2-26 SECTION 6. This Act takes effect September 1, 2005.

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