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SENATE BILL NO. 1158

Offered January 14, 2009

Prefiled January 13, 2009

A BILL to amend the Code of Virginia by adding a section numbered 65.2-603.1, relating to the use of therapeutically equivalent drug products by workers' compensation claimants.

Patron—Saslaw

Referred to Committee on Commerce and Labor

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 65.2-603.1 as follows:**

*§ 65.2-603.1. Use of therapeutically equivalent drug products required.*

A. As used in this section, "therapeutically equivalent drug products" means drug products that (i) contain the same active ingredients, (ii) are identical in strength or concentration, dosage form, and route of administration, and (iii) are classified as being therapeutically equivalent by the U.S. Food and Drug Administration pursuant to the definition of "therapeutically equivalent drug products" set forth in the most recent edition of Approved Drug Products with Therapeutic Equivalence Evaluations, known as the Orange Book.

B. Notwithstanding the provisions of § 54.1-3408.03, and except as provided in subsection C, any pharmacist filling a prescription for medication for a workers' compensation claimant shall dispense a therapeutically equivalent drug product for the prescribed name-brand drug product. If a therapeutically equivalent drug product does not exist or costs more than the prescribed name-brand drug product, the pharmacist shall dispense the prescribed name-brand drug product.

C. A prescriber may specify on the prescription "brand medically necessary" if there is a medical reason why the claimant should not have the prescription filled with a therapeutically equivalent drug product. A request by the claimant that a name-brand drug product be prescribed shall not constitute a sufficient reason under this section for the prescriber to specify "brand medically necessary" on the prescription. If the prescriber specifies on the prescription "brand medically necessary," the pharmacist shall fill the prescription with the name-brand drug product prescribed.

D. An act in compliance with the provisions of this section shall not be deemed to be a prohibited act under § 54.1-3457.

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