

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding a section numbered 65.2-603.1, relating to the use of*
3 *therapeutically equivalent drug products by workers' compensation claimants.*

4 [S 1158]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That the Code of Virginia is amended by adding a section numbered 65.2-603.1 as follows:**8 *§ 65.2-603.1. Use of therapeutically equivalent drug products required.*

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

15 *B. Notwithstanding the provisions of § 54.1-3408.03, and except as provided in subsection C, any*
16 *pharmacist filling a prescription for medication for a workers' compensation claimant shall dispense a*
17 *therapeutically equivalent drug product for the prescribed name-brand drug product. If a therapeutically*
18 *equivalent drug product does not exist or the usual and customary retail price charged by the*
19 *pharmacist for the therapeutically equivalent drug product is higher than that of the prescribed*
20 *name-brand drug product, the pharmacist shall dispense the prescribed name-brand drug product.*

21 *C. A prescriber may specify on the prescription "brand medically necessary" if there is a medical*
22 *reason why the claimant should not have the prescription filled with a therapeutically equivalent drug*
23 *product. A request by the claimant that a name-brand drug product be prescribed shall not constitute a*
24 *sufficient reason under this section for the prescriber to specify "brand medically necessary" on the*
25 *prescription. If the prescriber specifies on the prescription "brand medically necessary," the pharmacist*
26 *shall fill the prescription with the name-brand drug product prescribed. If the prescriber calls the*
27 *prescription in to the pharmacy by telephone and verbally tells the pharmacist "brand medically*
28 *necessary," the pharmacist shall note on the prescription that the prescriber stated "brand medically*
29 *necessary" and then fill the prescription with the name-brand drug product prescribed. The cost of any*
30 *medication prescribed by any authorized treating physician and covered pursuant to this section to treat*
31 *injuries or diseases that result from a compensable claim shall not be the responsibility of the claimant*
32 *unless the claimant obtained the prescription through fraud.*

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

ENROLLED

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