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SENATE BILL NO. 187

Offered January 13, 2010

Prefiled January 12, 2010

A *BILL to amend and reenact § 54.1-3408.03 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-3408.04, relating to prescriptions for anti-epileptic drugs.*

Patron—Northam

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3408.03 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-3408.04 as follows:

§ 54.1-3408.03. Dispensing of therapeutically equivalent drug product permitted.

A. A pharmacist may dispense a therapeutically equivalent drug product for a prescription that is written for a brand-name drug product unless (i) the prescriber indicates such substitution is not authorized by specifying on the prescription, "brand medically necessary," or (ii) the patient insists on the dispensing of the brand-name drug product, or (iii) *the prescription is for an anti-epileptic drug and the prior notification and consent requirements of § 54.1-3408.04 have not been met.*

In the case of an oral prescription, the prescriber's oral dispensing instructions regarding substitution shall be followed.

B. ~~Prescribers using prescription blanks printed in compliance with Virginia law in effect on June 30, 2003, having two check boxes and referencing the Virginia Voluntary Formulary, may indicate, until July 1, 2006, that substitution is not authorized by checking the "Dispense as Written" box. If the "Voluntary Formulary Permitted" box is checked on such prescription blanks or if neither box is checked, a pharmacist may dispense a therapeutically equivalent drug product pursuant to such prescriptions.~~

~~C.~~ If the pharmacist dispenses a drug product other than the brand name prescribed, he shall so inform the purchaser and shall indicate, unless otherwise directed by the prescriber, on both his permanent record and the prescription label, the brand name or, in the case of a therapeutically equivalent drug product, the name of the manufacturer or the distributor. Whenever a pharmacist dispenses a therapeutically equivalent drug product pursuant to a prescription written for a brand-name product, the pharmacist shall label the drug with the name of the therapeutically equivalent drug product followed by the words "generic for" and the brand name of the drug for which the prescription was written.

~~D.C.~~ When a pharmacist dispenses a drug product other than the drug product prescribed, the dispensed drug product shall be at a lower retail price than that of the drug product prescribed. Such retail price shall not exceed the usual and customary retail price charged by the pharmacist for the dispensed therapeutically equivalent drug product.

§ 54.1-3408.04. *Dispensing of therapeutically equivalent anti-epileptic drug product prohibited.*

A. A pharmacist may not interchange any anti-epileptic drug without prior notification of, and the signed informed consent for, such interchange from the prescribing physician and the patient or his legal guardian or representative.

B. For the purposes of this section:

"Anti-epileptic drug" means (i) any drug prescribed for the treatment of epilepsy or (ii) any drug used to treat or prevent seizures.

"Epilepsy" means a neurological condition characterized by recurrent seizures.

"Interchange" means the substitution of one version of the same anti-epileptic drug product, including a generic version for the prescribed brand, a brand version for the prescribed generic version, or a generic version by one manufacturer for a generic version by a different manufacturer for the anti-epileptic drug product originally dispensed.

"Seizure" means an acute clinical change secondary to a brief disturbance in the electrical activity of the brain.

INTRODUCED

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