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HOUSE BILL NO. 2736

Offered January 20, 1997

A BILL to amend and reenact §§ 32.1-79 and 32.1-87 of the Code of Virginia, relating to the Voluntary Formulary.

Patrons—DeBoer, Darner and Davies; Senators: Couric, Gartlan, Houck and Lambert

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-79 and 32.1-87 of the Code of Virginia is amended and reenacted as follows:

§ 32.1-79. Definitions.

As used in this article:

"Formulary Board" means the Virginia Voluntary Formulary Board.

"Drug" shall have the same meaning as provided in § 54.1-3401.

"Drug product" means a specific drug in dosage form from a known source of manufacture, whether by brand or established name.

"Formulary" and "Voluntary Formulary" mean the Virginia Voluntary Formulary prepared in accordance with the provisions of this article.

"Narrow therapeutic index drugs" means those pharmaceuticals having a more defined range between risk and benefit. Such drugs are known to have less than a two-fold difference in the minimum toxic concentration and minimum effective concentration in the blood.

"Therapeutic index of a drug" means the range between benefit and risk of the drug.

§ 32.1-87. Use of Formulary.

A. Use of the Voluntary Formulary by professional and institutional providers of health care shall be voluntary. The prescription form shall include two boxes, one labelled "Voluntary Formulary Permitted" and the other labelled "Dispense As Written." A prescriber may indicate his permission for the dispensing of a drug product included in the Formulary upon signing a prescription form and marking the box labelled "Voluntary Formulary Permitted." A Voluntary Formulary product shall be dispensed if the prescriber fails to indicate his preference. If no Voluntary Formulary product is immediately available, or if the patient objects to the dispensing of a generic drug, the pharmacist may dispense a brand name drug.

On and after July 1, 1993, printed prescription forms shall provide:

" ☐ Dispense As Written

☐ Voluntary Formulary Permitted

.....

Signature of prescriber

If neither box is marked, a Voluntary Formulary product must be dispensed."

If a prescriber orders a drug listed in the Formulary by its generic name, the pharmacist shall dispense a drug product from among those listed in the Formulary.

In the case of an oral prescription, the prescriber's oral dispensing instructions shall be followed. If the pharmacist dispenses a drug product other than the brand name prescribed, he shall so apprise 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 generic drug product, the name of the manufacturer or distributor.

B. When a pharmacist dispenses a drug product other than the drug product prescribed under the provisions of subsection A hereof pursuant to the Formulary, the drug product dispensed 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 such generic or equivalent drug product dispensed.

The selection of such drug product shall be the responsibility of the pharmacist dispensing the product and no employer, agent or other person may require the dispensing of a particular drug product which in the professional judgment of the dispensing pharmacist is not in the best interest of the patient.

C. Narrow therapeutic index drugs include: carbamazepine, conjugated estrogens, digoxin,

levothyroxine, phenytoin, theophylline sustained release, and Warfarin. A pharmacist shall not substitute or interchange a narrow therapeutic index drug, as defined in § 32.1-79 and identified in this subsection, without the written informed consent of the patient's physician to the substitution or interchange. The written informed consent shall be signed by the patient's physician.

Other drugs identified hereinafter by the Food and Drug Administration as having narrow therapeutic indices may be designated by the Voluntary Formulary Board as such narrow therapeutic index drugs and shall be subject to the provisions of this subsection.