

## **32 §13781. GENERIC AND THERAPEUTICALLY EQUIVALENT SUBSTITUTION**

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A written prescription issued by a practitioner in this State may contain a box in the lower right-hand corner of the prescription form. The following words must appear to the left of this box: "Any drug which is the generic and therapeutic equivalent of the drug specified above in this prescription must be dispensed, provided that no check mark ( ) has been handwritten in the box in the lower right-hand corner." [ 2003 , c. 384, §1 (AMD). ]

Except with regard to a patient who is paying for a drug with the patient's own resources, any pharmacist receiving a prescription in which no handwritten check mark ( ) is found in the box provided shall substitute a generic and therapeutically equivalent drug for the drug specified on the prescription if the substituted drug is distributed by a business entity doing business in the United States that is subject to suit and the service of legal process in the United States and the price of the substituted drug does not exceed the price of the drug specified by the practitioner; except that, when the cost of a prescription is to be reimbursed under the MaineCare program pursuant to Title 22, chapter 855, the pharmacist shall substitute a generic and therapeutically equivalent drug only when the Department of Health and Human Services has determined that the substitute drug would be a more cost-effective alternative than the drug prescribed by the practitioner. Except for prescribed drugs listed under the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 United States Code, Section 812, as amended, as Schedule II drugs, with regard to a patient who is paying for a drug with the patient's own resources, a pharmacist shall inquire about the patient's preference for either the brand-name drug or generic and therapeutically equivalent drug and dispense the drug that the patient prefers. [ 2007, c. 85, §1 (AMD). ]

Except with regard to a patient who is paying for a drug with the patient's own resources, if a written prescription issued by a practitioner in this State does not contain the box described in this section, a pharmacist shall substitute a generic and therapeutically equivalent drug for the drug specified on the prescription if the substituted drug is distributed by a business entity doing business in the United States that is subject to suit and the service of legal process in the United States and the price of the substituted drug does not exceed the price of the drug specified by the practitioner, unless a practitioner has handwritten on the prescription form, along with the practitioner's signature, "dispense as written," "DAW," "brand," "brand necessary" or "brand medically necessary"; except that, when the cost of a prescription is to be reimbursed under the MaineCare program pursuant to Title 22, chapter 855, the pharmacist shall substitute a generic and therapeutically equivalent drug only when the Department of Health and Human Services has determined that the substitute drug would be a more cost-effective alternative than the drug prescribed by the practitioner. Except for prescribed drugs listed under the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 United States Code, Section 812, as amended, as Schedule II drugs, with regard to a patient who is paying for a drug with the patient's own resources, a pharmacist shall inquire about the patient's preference for either the brand-name drug or generic and therapeutically equivalent drug and dispense the drug that the patient prefers. [ 2007, c. 85, §2 (AMD). ]

Any pharmacist who substitutes a generic and therapeutically equivalent drug under this section shall inform the person to whom the drug is dispensed of the substitution. When any substitution is made under this section, the pharmacist shall cause the name of the generic and therapeutically equivalent drug, the name or abbreviation of the drug manufacturer or distributor of that substitute drug and all other information as required by section 13794 to appear on the container label of the drug dispensed. [ 1987, c. 710, §5 (NEW). ]

This section does not apply to prescriptions ordered by practitioners for patients in hospitals when those prescriptions are filled by a hospital pharmacy or in any institution where a formulary system is established. [ 1987, c. 710, §5 (NEW). ]

### SECTION HISTORY

1987, c. 710, §5 (NEW). 1997, c. 245, §§13,14 (AMD). 2003, c. 384, §1 (AMD). 2003, c. 689, §B6 (REV). 2007, c. 85, §§1, 2 (AMD).

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