SECOND REGULAR SESSION

SENATE BILL NO. 825

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CLEMENS.

Read 1st time January 25, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

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AN ACT

To repeal section 338.056, RSMo, and to enact in lieu thereof two new sections relating to prohibiting the interchange of anti-epileptic drugs.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 338.056, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 338.056 and 338.058, to read as follows:

338.056. 1. Except as provided in subsection 2 of this section, the pharmacist filling prescription orders for drug products prescribed by trade or brand name may select another drug product with the same active chemical ingredients of the same strength, quantity and dosage form, and of the same generic drug type, as determined by the United States Adopted Names and accepted by the Federal Food and Drug Administration. Selection pursuant to this section is within the discretion of the pharmacist, except as provided in subsection 2 of this section. The pharmacist who selects the drug product to be dispensed pursuant to this section shall assume the same responsibility for selecting the dispensed drug product as would be incurred in filling a prescription for a drug product prescribed by generic name. The pharmacist shall not select a drug product pursuant to this section unless the product selected costs the patient less than the prescribed product.

2. **Except as provided under section 338.058,** a pharmacist who receives a prescription for a brand name drug may, unless requested otherwise by the purchaser, select a less expensive generically equivalent product under the following circumstances:

(1) If a written prescription is involved, the prescription form used shall have two signature lines at opposite ends at the bottom of the form. Under the

line at the right side shall be clearly printed the words: "Dispense as Written". Under the line at the left side shall be clearly printed the words "Substitution Permitted". The prescriber shall communicate the instructions to the pharmacist by signing the appropriate line. No prescription shall be valid without the signature of the prescriber on one of these lines;

(2) If an oral prescription is involved, the practitioner or the practitioner's agent, communicating the instructions to the pharmacist, shall instruct the pharmacist as to whether or not a therapeutically equivalent generic drug may be substituted. The pharmacist shall note the instructions on the file copy of the prescription.

3. All prescriptions written in the state of Missouri by practitioners authorized to write prescriptions shall be on forms which comply with subsection 2 hereof.

4. Notwithstanding the provisions of subsection 2 of this section to the contrary, a pharmacist may fill a prescription for a brand name drug by substituting a generically equivalent drug when generic substitution is allowed in accordance with the laws of the state where the prescribing practitioner is located.

5. Violations of this section are infractions.

338.058. 1. For purposes of this section, the following terms shall mean:

(1) "Anti-epileptic drug", any drug prescribed for the treatment of epilepsy or a drug used to treat or prevent seizures;

(2) "Epilepsy", a neurological condition characterized by recurrent seizures;

(3) "Interchange", the dispensing of one manufacturer of an anti-epileptic drug for a different manufacturer of an anti-epileptic drug for which the patient is currently receiving therapy. This includes the substitution of a generic version for a brand version, a brand version for a generic version, or a generic version for a generic version by a different manufacturer;

(4) "Seizure", a brief disturbance in the electrical activity of the brain.

2. A pharmacist, pharmacy intern, or pharmacy technician shall provide notification to the patient, a family member, other relative, or a close personal friend of the individual or any other person identified

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by the patient before interchanging one manufacturer of an anti-epileptic drug for another manufacturer of an anti-epileptic drug in instances where said epilepsy or seizures is currently being controlled on a specific drug, strength, dosage form, and dosing regimen from a specific manufacturer. The prescriber of said medication shall also be notified prior to the interchange.

3. The provisions of this section shall not apply to prescriptions dispensed for inpatients of a hospital, a long term care facility defined under section 198.006, or inpatients or residents of a facility licensed, certified, or funded by the department of mental health.

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