

BILL ANALYSIS

Senate Research Center
79R9874 MSE-D

S.B. 1476
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Health and Human Services
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As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Current law provides that if a physician wants a patient's prescription to be filled with a brand name medication, rather than a generic substitute, the physician must hand write specific wording mandated by statute on the prescription. The law also allows a pharmacy to refill a prescription using a generic drug even when the physician requested a brand name on the original prescription.

As proposed, S.B. 1476 provides that on written prescriptions a physician will sign on either a line marked "brand necessary" or "substitution permitted," and allows a pharmacist to use a generic drug only if the physician specifically authorizes a generic substitution. Electronically generated prescriptions will contain "brand necessary" or "brand medically necessary" to prohibit generic substitutions. The bill also prohibits a prescription from being refilled with a generic substitute if the original prescription required a specific prescribed brand as medically necessary.

RULEMAKING AUTHORITY

Rules making authority previously granted to the Texas State Board of Pharmacy is modified in SECTION 4 (Section 562.015, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 562.007, Occupations Code, to prohibit a prescription from being refilled with a generic equivalent if the original prescription form or dispensing directive required a specifically prescribed brand as medically necessary.

SECTION 2. Amends Section 562.008, Occupations Code, to authorize the pharmacist to substitute a generically equivalent drug only if the practitioner certifies on the written prescription form that substitution is permitted. Authorizes, except as otherwise provided by this subchapter, a pharmacist who receives a prescription for a drug for which there is one or more generic equivalents to dispense any of the generic equivalents if otherwise permitted by the prescription or dispensing directive.

SECTION 3. Amends Section 562.009(a), Occupations Code, to amend the notification required to be displayed by a pharmacist detailing a patient's rights concerning generically equivalent drugs.

SECTION 4. Amends Section 562.015, Occupations Code, to read as follows:

Sec. 562.015. DISPENSING DIRECTIVE; COMPLIANCE WITH FEDERAL LAW. (a) Requires the Texas State Board of Pharmacy (board) to adopt rules to provide a dispensing directive to instruct pharmacists on the manner in which to dispense a drug according to the contents of a written prescription or an electronically transmitted prescription. Makes modifications to requirements for rules adopted under this section.

(b) Deletes existing text relating to the board providing an exemption from the directive adopted under this section for prescriptions transmitted electronically.

SECTION 5. Requires the board to adopt rules as required by Section 562.015, as amended by this Act, not later than January 1, 2006.

SECTION 6. Effective date: September 1, 2005.