

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 883

S.P. 281

February 27, 2007

An Act To Allow a Self-pay Patient To Choose between Generic and Brand-name Medications

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator ROSEN of Hancock.
Cosponsored by Representative CAMPBELL of Newfield and
Representatives: LEWIN of Eliot, PERRY of Calais, WALKER of Lincolnville, WEBSTER of
Freeport.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 32 MRSA §13781, 2nd ¶**, as amended by PL 2003, c. 384, §1 and c. 689,
3 Pt. B, §6, is further amended to read:

4 Any Except with regard to a patient who is paying for a drug with the patient's own
5 resources, any pharmacist receiving a prescription in which no handwritten check mark
6 () is found in the box provided shall substitute a generic and therapeutically equivalent
7 drug for the drug specified on the prescription if the substituted drug is distributed by a
8 business entity doing business in the United States that is subject to suit and the service of
9 legal process in the United States and the price of the substituted drug does not exceed the
10 price of the drug specified by the practitioner; except that, when the cost of a prescription
11 is to be reimbursed under the MaineCare program pursuant to Title 22, chapter 855, the
12 pharmacist shall substitute a generic and therapeutically equivalent drug only when the
13 Department of Health and Human Services has determined that the substitute drug would
14 be a more cost-effective alternative than the drug prescribed by the practitioner. With
15 regard to a patient who is paying for a drug with the patient's own resources, a
16 pharmacist shall inquire about the patient's preference for either the brand-name drug or
17 generic and therapeutically equivalent drug and dispense the drug that the patient prefers.

18 **Sec. 2. 32 MRSA §13781, 3rd ¶**, as amended by PL 2003, c. 384, §1 and c. 689,
19 Pt. B, §6, is further amended to read:

20 If Except with regard to a patient who is paying for a drug with the patient's own
21 resources, if a written prescription issued by a practitioner in this State does not contain
22 the box described in this section, a pharmacist shall substitute a generic and
23 therapeutically equivalent drug for the drug specified on the prescription if the substituted
24 drug is distributed by a business entity doing business in the United States that is subject
25 to suit and the service of legal process in the United States and the price of the substituted
26 drug does not exceed the price of the drug specified by the practitioner, unless a
27 practitioner has handwritten on the prescription form, along with the practitioner's
28 signature, "dispense as written," "DAW," "brand," "brand necessary" or "brand medically
29 necessary"; except that, when the cost of a prescription is to be reimbursed under the
30 MaineCare program pursuant to Title 22, chapter 855, the pharmacist shall substitute a
31 generic and therapeutically equivalent drug only when the Department of Health and
32 Human Services has determined that the substitute drug would be a more cost-effective
33 alternative than the drug prescribed by the practitioner. With regard to a patient who is
34 paying for a drug with the patient's own resources, a pharmacist shall inquire about the
35 patient's preference for either the brand-name drug or generic and therapeutically
36 equivalent drug and dispense the drug that the patient prefers.

37

SUMMARY

38 This bill allows a patient who pays for prescription drugs to choose between a brand-
39 name drug and a generic and therapeutically equivalent drug.