SECOND REGULAR SESSION

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document No. 1975

H. P. 1914 Office of the Clerk of the House

The Committee on Health and Institutional Services suggested. Approved for introduction by the Legislative Council pursuant to Joint Rule 24.

EDWIN H. PERT, Clerk

Presented by Mr. Boudreau of Waterville.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED SEVENTY-EIGHT

AN ACT Concerning Substitution of Generic Drugs by Pharmacists.

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

32 MRSA § 2806, as enacted by PL 1975, c. 476, § 1, is repealed and the following enacted in its place:

§ 2806. Substitution of drugs

1. Definitions. As used in this section, unless the context clearly indicates otherwise, the following words shall have the following meanings.

A. "Brand name" means the registered trademark name given to a drug product by its manufacturer, labeler or distributor.

B. "Generically equivalent drug product" means a drug product with the same active ingredient, finished dosage form and strength.

2. Substitution permitted. A pharmacist who receives a prescription for a brand name drug may, unless requested otherwise by the purchaser, substitute an equally or less expensive generically equivalent drug product that is distributed by a business entity doing business in the United States and is subject to suit and service of legal process in the United States for the brand name drug prescribed, unless the prescriber writes the words "this brand medically necessary" in his own handwriting on the face of a written prescription or unless, in the case of an oral prescription, the prescriber expressly indicates to the pharmacist that the brand name drug prescribed is medically necessary.

3. Pharmacist's liability. The liability of a pharmacist dispensing a generically equivalent drug product for a brand name drug product shall be the same as it would be if the generically equivalent drug were prescribed.

STATEMENT OF FACT

This bill will eliminate deficiencies in the present law concerning dispensing of generically equivalent drug products by:

1. Permitting substitution of generically equivalent drug products whenever the medical practitioner fails to imprint his prescription blanks with the checkoff as required by present legislation;

2. Eliminating the restrictions to only the drugs listed in the United States Pharmacopoeia or the National Formulary; and

3. Making the Maine law similar to the federal law which uses "this brand medically necessary."