

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 2075

H.P. 1498

House of Representatives, January 4, 1990

Reported by Representative CONSTANTINE from the Joint Standing Committee on Business Legislation.

Reference to the Joint Standing Committee on Business Legislation suggested and printing ordered under Joint Rule 19.

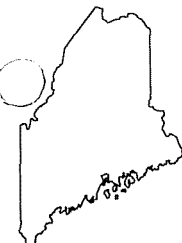
A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act to Require That Pharmacists Dispense Generic Drugs When Allowed by the Physician.



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

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32 MRSA §13781, as enacted by PL 1987, c. 710, §5, is
4 amended to read:

6 **§13781. Generic and therapeutically equivalent substitution**

8 Every written prescription issued by a practitioner in this
9 State shall contain in the lower right-hand corner of the
10 prescription form a box at least 1/2 inch by 1/2 inch. The
11 following words must appear to the left of this box: "Any drug
12 which is the generic and therapeutic equivalent of the drug
13 specified above in this prescription may be dispensed, provided
14 that no check mark () has been handwritten in the box in the
15 lower right-hand corner."

16 Any pharmacist receiving a prescription in which no
17 handwritten check mark () is found in the box provided may shall
18 substitute, unless the purchaser requests otherwise under the
19 procedures of this section, a generic and therapeutically
20 equivalent drug for the drug specified on the prescription,
21 provided that the substituted drug is distributed by a business
22 entity doing business in the United States which is subject to
23 suit and the service of legal process in the United States and
24 that the price of the substituted drug does not exceed the price
25 of the drug specified by the practitioner. The pharmacist shall
26 pass on to the consumer all savings resulting from this
27 substitution by charging no more than the regular and customary
28 price of that pharmacy for the drug substituted.

30 Any pharmacist who substitutes a generic and therapeutically
31 equivalent drug under this section shall inform the person to
32 whom the drug is dispensed of the substitution. Any pharmacist
33 who intends to substitute a generic drug shall notify the person
34 presenting the prescription of the substitution and shall inform
35 the person presenting the prescription that the person may refuse
36 the substitution. If the person refuses the substitution, the
37 pharmacist shall notify the person of the retail price difference
38 between the brand name drug and the drug substituted for it and
39 again give the purchaser the opportunity to accept the generic
40 substitution. When any substitution is made under this section,
41 the pharmacist shall cause the name of the generic and
42 therapeutically equivalent drug, the name or abbreviation of the
43 drug manufacturer or distributor of that substitute drug and all
44 other information as required by section 13794 to appear on the
45 container label of the drug dispensed.

46 This section does not apply to prescriptions ordered by
47 practitioners for patients in hospitals when those prescriptions
48 are filled by a hospital pharmacy or in any institution where a
49 formulary system is established.
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STATEMENT OF FACT

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This bill requires a pharmacist to substitute a generic drug for a branded drug when such substitution is authorized by a physician. Upon being shown the cost savings, the purchaser has the option of refusing the substitution. Currently, such substitution by the pharmacist is allowed but not required and there is no provision for the purchaser to refuse the substitution. The bill requires that the full savings from this substitution be passed on to the consumer. Present law only requires that the generic drug be no more expensive to the consumer than the branded drug.