

# MAINE STATE LEGISLATURE

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R. of S.

L.D. 729

DATE: 4-30-97

(Filing No. H-288)

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**BUSINESS AND ECONOMIC DEVELOPMENT**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
118TH LEGISLATURE  
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to H.P. 538, L.D. 729, Bill, "An Act to Amend the Maine Pharmacy Act"

Amend the bill by inserting after section 12 the following:

**Sec. 13. 32 MRSA §13781, first and 2nd ¶¶, as enacted by PL 1987, c. 710, §5, are amended to read:**

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

Any pharmacist receiving a prescription in which no handwritten check mark ( ) is found in the box provided may substitute a generic and therapeutically equivalent drug for the drug specified on the prescription, ~~provided that~~ if the substituted drug is distributed by a business entity doing business in the United States ~~which~~ that is subject to suit and the service of legal process in the United States and that the price of the substituted drug does not exceed the price of the drug specified by the practitioner.

**Sec. 14. 32 MRSA §13781, as enacted by PL 1987, c. 710, §5, is amended by inserting after the 2nd paragraph the following:**

**COMMITTEE AMENDMENT**

2        If a written prescription issued by a practitioner in this  
3        State does not contain the box described in this section, a  
4        pharmacist may substitute a generic and therapeutically  
5        equivalent drug for the drug specified on the prescription if the  
6        substituted drug is distributed by a business entity doing  
7        business in the United States that is subject to suit and the  
8        service of legal process in the United States and the price of  
9        the substituted drug does not exceed the price of the drug  
10       specified by the practitioner, unless a practitioner has  
11       handwritten on the prescription form, along with the  
12       practitioner's signature, "dispense as written," "DAW," "brand,"  
13       "brand necessary" or "brand medically necessary."

14                    **Sec. 15. 32 MRSA §13782-A is enacted to read:**

15                    **§13782-A. Price disclosure**

16                    **1. Price disclosure required.** A pharmacist or pharmacy  
17                    technician employed by a drug outlet shall disclose upon the  
18                    request of any person making an inquiry in person or by telephone  
19                    the price of any brand or generic drug sold by that drug outlet.

20                    **2. Information required for price disclosure.** In order to  
21                    have sufficient information to disclose a prescription price, a  
22                    pharmacist or pharmacy technician may ask the person making the  
23                    inquiry for the following information:

- 24                    A. The brand or generic name of the medication;
- 25                    B. The dose or strength of the medication, if applicable; or
- 26                    C. The quantity of the medication.

27                    **3. Information not provided.** If the inquiring person can  
28                    not provide some or all of the information in subsection 2 and  
29                    this information is necessary for the requested price to be  
30                    determined, then the pharmacist or pharmacy technician may  
31                    contact the prescribing practitioner in order to obtain the  
32                    necessary information prior to disclosing the prescription price.

33                    **Sec. 16. 32 MRSA §13783, as enacted by PL 1987, c. 710, §5,**  
34                    **is repealed.'**

35                    Further amend the bill by inserting after section 13 the  
36                    following:

37                    **'Sec. 14. Allocation.** The following funds are allocated from  
38                    Other Special Revenue to carry out the purposes of this Act.

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1997-98

1998-99

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**PROFESSIONAL AND FINANCIAL  
REGULATION, DEPARTMENT OF**

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**Division of Licensing and  
Enforcement**

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All Other \$12,000 \$12,000

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Allocates funds for the regulation of pharmacy technicians by the Board of Commissioners of the Profession of Pharmacy.'

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Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

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Further amend the bill by inserting at the end before the summary the following:

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**FISCAL NOTE**

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1997-98

1998-99

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**APPROPRIATIONS/ALLOCATIONS**

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Other Funds \$12,000 \$12,000

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**REVENUES**

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Other Funds \$12,000 \$12,000

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The Board of Commissioners of the Profession of Pharmacy within the Department of Professional and Financial Regulation will require additional Other Special Revenue allocations of \$12,000 annually beginning in fiscal year 1997-98 for the costs of regulating pharmacy technicians. These additional costs will be offset by registration revenues collected by the board from pharmacy technicians.

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This bill may increase prosecutions for Class E crimes. If a jail sentence is imposed, the additional costs to the counties are estimated to be \$83.78 per day per prisoner. These costs are

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B. 9/8

2 not reimbursed by the State. The number of prosecutions that may  
3 result in a jail sentence and the resulting costs to the county  
4 jail system are expected to be insignificant.

6 The additional workload and administrative costs associated  
7 with the minimal number of new cases filed in the court system  
8 can be absorbed within the budgeted resources of the Judicial  
9 Department. The collection of additional fines may increase  
10 General Fund revenue by minor amounts.'

12 **SUMMARY**

14 This amendment adds new sections to the bill that revise the  
15 law regulating generic and therapeutically equivalent  
16 substitutions for brand-name medications to increase prescription  
17 form options available to practitioners and pharmacists. The  
18 amendment also eliminates the requirement for posting a "Top 100"  
19 list of drug prices and replaces it with a requirement that a  
20 pharmacist or pharmacy technician disclose drug prices when  
21 asked, if provided with sufficient information by the inquiring  
22 person or by the prescribing practitioner.

24 This amendment also adds an allocation section and fiscal  
note to the bill.