

MAINE STATE LEGISLATURE

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HEALTH AND HUMAN SERVICES

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STATE OF MAINE
SENATE
121ST LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 111, L.D. 329, Bill, "An Act to Encourage the Use of Generic Drugs"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 32 MRSA §13781, as amended by PL 1997, c. 245, §§13 and 14, is further amended to read:

§13781. Generic and therapeutically equivalent substitution

A written prescription issued by a practitioner in this State may contain a box in the lower right-hand corner of the prescription form. 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 must 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 shall substitute a generic and therapeutically equivalent drug for the drug specified on the prescription if the substituted drug is distributed by a business entity doing business in the United States that is subject to suit and the service of legal process

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2 in the United States and that the price of the substituted drug
3 does not exceed the price of the drug specified by the
4 practitioner; except that, when the cost of a prescription is to
5 be reimbursed under the MaineCare program pursuant to Title 22,
6 chapter 855, the pharmacist shall substitute a generic and
7 therapeutically equivalent drug only when the Department of Human
8 Services has determined that the substitute drug would be a more
9 cost-effective alternative than the drug prescribed by the
10 practitioner.

11 If a written prescription issued by a practitioner in this
12 State does not contain the box described in this section, a
13 pharmacist may shall substitute a generic and therapeutically
14 equivalent drug for the drug specified on the prescription if the
15 substituted drug is distributed by a business entity doing
16 business in the United States that is subject to suit and the
17 service of legal process in the United States and the price of
18 the substituted drug does not exceed the price of the drug
19 specified by the practitioner, unless a practitioner has
20 handwritten on the prescription form, along with the
21 practitioner's signature, "dispense as written," "DAW," "brand,"
22 "brand necessary" or "brand medically necessary-"; except that,
23 when the cost of a prescription is to be reimbursed under the
24 MaineCare program pursuant to Title 22, chapter 855, the
25 pharmacist shall substitute a generic and therapeutically
26 equivalent drug only when the Department of Human Services has
27 determined that the substitute drug would be a more
28 cost-effective alternative than the drug prescribed by the
29 practitioner.

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. When any
33 substitution is made under this section, the pharmacist shall
34 cause the name of the generic and therapeutically equivalent
35 drug, the name or abbreviation of the drug manufacturer or
36 distributor of that substitute drug and all other information as
37 required by section 13794 to appear on the container label of the
38 drug dispensed.

39 This section does not apply to prescriptions ordered by
40 practitioners for patients in hospitals when those prescriptions
41 are filled by a hospital pharmacy or in any institution where a
42 formulary system is established.'

46 **SUMMARY**

47 This amendment provides that the generic substitution
48 provisions of the bill apply to MaineCare prescriptions only when
49

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2 the Department of Human Services has determined that a generic
and therapeutically equivalent drug would be more cost effective.

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FISCAL NOTE REQUIRED
(See attached)

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Approved: 04/13/03 *MAC*

**121st Maine Legislature
Office of Fiscal and Program Review**

LD 329

An Act to Encourage the Use of Generic Drugs



LR 1567(02)

Fiscal Note for Bill as Amended by Committee Amendment *AS-191*

Committee: Health and Human Services

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - Other Special Revenue Funds