

1 SB39  
2 194116-1  
3 By Senator Beasley  
4 RFD: Healthcare  
5 First Read: 05-MAR-19  
6 PFD: 02/27/2019

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8 SYNOPSIS: Under existing law, the dispensing of a  
9 different drug or brand of a drug in lieu of the  
10 drug ordered or prescribed is prohibited except a  
11 pharmacist is authorized to dispense a less  
12 expensive pharmaceutically and therapeutically  
13 equivalent generic drug product prescribed by a  
14 licensed physician or other practitioner, including  
15 a practitioner located in another state. A written  
16 prescription issued in this state is required to  
17 have two signature lines, one designated "dispense  
18 as written" and one designated "product selection  
19 permitted." An oral prescription from a  
20 practitioner is required to specify whether a  
21 generic drug product may be dispensed. A violation  
22 is subject to a fine.

23 This bill would delete the provision  
24 prohibiting dispensing a different drug or brand of  
25 drug and would specify that unless the physician or  
26 other practitioner indicates otherwise, a  
27 pharmacist may dispense either a brand name drug or

1 a less expensive pharmaceutically or  
2 therapeutically equivalent generic drug product.  
3 The bill would also delete the requirement for a  
4 written prescription to contain two signature lines  
5 and the specified requirement for an oral  
6 prescription.

7  
8 A BILL  
9 TO BE ENTITLED  
10 AN ACT  
11

12 Relating to pharmacists and the requirements for  
13 prescriptions and the dispensing of prescriptions; to amend  
14 Section 34-23-8 of the Code of Alabama 1975, to specify that,  
15 unless a physician or other practitioner indicates otherwise,  
16 a pharmacist may dispense a less expensive pharmaceutically or  
17 therapeutically equivalent drug product and to delete the  
18 specified requirements for a written or an oral prescription.  
19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Section 34-23-8, Code of Alabama 1975, is  
21 amended to read as follows:

22 "§34-23-8.

23 ~~"No person shall dispense or cause to be dispensed a~~  
24 ~~different drug or brand of drug in lieu of that ordered or~~  
25 ~~prescribed without the express permission in each case of the~~  
26 ~~person ordering or prescribing such drug, except as provided~~  
27 ~~below:~~

1           ~~"(1) A licensed (a) Unless otherwise indicated by~~  
2           ~~the physician or other practitioner, a pharmacist in this~~  
3           ~~state shall be permitted to select for~~ may dispense either ~~the~~  
4           ~~brand name drug product prescribed by a licensed physician or~~  
5           ~~other practitioner who is located in this state and authorized~~  
6           ~~by law to write prescriptions, hereinafter referred to as~~  
7           ~~"practitioner,"~~ or ~~a less expensive pharmaceutically and~~  
8           ~~therapeutically equivalent drug product containing the same~~  
9           ~~active ingredient or ingredients, and of the same dosage form~~  
10           ~~strength, in all cases where the practitioner expressly~~  
11           ~~authorizes such selection in accordance with subdivision (4)~~  
12           ~~of this section. The pharmacist shall document his or her~~  
13           ~~selection by any appropriate means in accordance with the~~  
14           ~~exercise of his or her professional judgment.~~

15           ~~"(2) A licensed pharmacist located in this state~~  
16           ~~shall be permitted to select for the brand name drug product~~  
17           ~~prescribed by a practitioner who is located in another state~~  
18           ~~or licensing jurisdiction and who is authorized by the laws of~~  
19           ~~that state or jurisdiction to write prescriptions, a less~~  
20           ~~expensive pharmaceutically and therapeutically equivalent drug~~  
21           ~~product containing the same active ingredient or ingredients,~~  
22           ~~and of the same dosage form strength, in all cases where the~~  
23           ~~out-of-state licensed physician or other practitioner does not~~  
24           ~~expressly prohibit a substitution.~~

25           ~~"(3) (b) A pharmacist shall record on the~~  
26           ~~prescription form the name and manufacturer or distributor of~~  
27           ~~any drug product dispensed as herein authorized.~~

1           ~~"(4) Every written prescription issued in this state~~  
2 ~~by a licensed practitioner shall contain two signature lines.~~  
3 ~~Under one signature line shall be printed clearly the words~~  
4 ~~"dispense as written." Under the other signature line shall be~~  
5 ~~printed clearly the words "product selection permitted." The~~  
6 ~~practitioner shall communicate instructions to the pharmacist~~  
7 ~~by signing on the appropriate line. The State Board of~~  
8 ~~Pharmacy shall not promulgate any rule or regulation affecting~~  
9 ~~the subject matter of this subdivision.~~

10           ~~"An oral prescription from the practitioner shall~~  
11 ~~instruct the pharmacist whether or not a less expensive~~  
12 ~~pharmaceutically and therapeutically equivalent drug product~~  
13 ~~may be dispensed. The pharmacist shall note instructions on~~  
14 ~~the file copy of the prescription and retain the prescription~~  
15 ~~form for the period specified by law.~~

16           ~~"(5)(c) Unless otherwise indicated by the~~  
17 ~~practitioner, the prescription label on the dispensing~~  
18 ~~container shall indicate the actual drug product dispensed,~~  
19 ~~either the brand name, or if none, the generic name, and the~~  
20 ~~name of the manufacturer or a reasonable abbreviation of the~~  
21 ~~name of the manufacturer.~~

22           ~~"(6)(d) This section shall not be interpreted to~~  
23 ~~exclude the use of a formulary or drug list as adopted and~~  
24 ~~approved by a medical staff in a licensed hospital with drugs~~  
25 ~~provided thereunder by procedures established for use within~~  
26 ~~that licensed hospital.~~

1                   "~~(7)~~(e) Any person who violates the provisions of  
2 this section shall be punished by a fine of up to ~~\$1,000~~ one  
3 thousand dollars (\$1,000)."

4                   Section 2. This act shall become effective  
5 immediately following its passage and approval by the  
6 Governor, or its otherwise becoming law.