
SENATE BILL NO. 136—COMMITTEE ON HUMAN RESOURCES AND FACILITIES

FEBRUARY 5, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Prohibits substitution of generic drugs for prescribed drugs without written permission of practitioner. (BDR 54-1157)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~fromitted material~~ is material to be omitted.

AN ACT relating to pharmacy; prohibiting a pharmacist from making a substitution of a generic drug for a prescribed drug without the written permission of the practitioner; providing a penalty; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND
ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 639.0124 is hereby amended to read as follows:
2 639.0124 “Practice of pharmacy” includes, but is not limited to, the:
3 1. Performance or supervision of activities associated with
4 manufacturing, compounding, labeling, dispensing and distributing of a
5 drug.
6 2. Interpretation and evaluation of prescriptions or orders for medicine.
7 3. Participation in drug evaluation and drug research.
8 4. Advising of the therapeutic value, reaction, drug interaction, hazard
9 and use of a drug.
10 5. Selection of the source, storage and distribution of a drug.
11 6. Maintenance of proper documentation of the source, storage and
12 distribution of a drug.
13 7. Interpretation of clinical data contained in a person’s record of
14 medication.
15 8. Development of written guidelines and protocols in collaboration
16 with a practitioner ~~which~~ ***that*** are intended for a patient in a licensed
17 medical facility and ***that*** authorize the implementation, monitoring and
18 modification of drug therapy.

9. Implementation and modification of drug therapy in accordance with the authorization of the prescribing practitioner for a patient in a pharmacy in which drugs, controlled substances, poisons, medicines or chemicals are sold at retail.

The term does not include the changing of a prescription by a pharmacist or practitioner without the consent of the prescribing practitioner. ~~[-, except as otherwise provided in NRS 639.2583.]~~

Sec. 2. NRS 639.23286 is hereby amended to read as follows:

639.23286 A pharmacy that is located outside Nevada and provides mail order service to a resident of Nevada:

1. May substitute a drug if the substitution is made in accordance with ~~the~~ :

(a) *The* provisions of the laws and regulations of the state in which the pharmacy is located ~~[-]~~ ; *and*

(b) *NRS 639.2583 and 639.2587.*

2. Shall provide a toll-free telephone service for its customers to a pharmacist who has access to the records of the customers from Nevada. The telephone service must be available for not less than 5 days per week and for at least 40 hours per week. The telephone number must be disclosed on the label attached to each container of drugs dispensed to a resident of Nevada.

Sec. 3. NRS 639.2583 is hereby amended to read as follows:

639.2583 *A pharmacist shall not make a substitution in filling a prescription unless the practitioner who prescribed the drug indicates in writing that a substitution may be made.* If a practitioner has prescribed a drug by brand name and has ~~not~~ indicated *in writing* that a substitution ~~is prohibited,~~ *may be made*, a pharmacist:

1. Shall, in a case where he is being paid for the drug by a governmental agency; and

2. May, in any other case, fill the prescription with another drug ~~which~~ *that* is available to him, is less expensive than the drug prescribed, is biologically equivalent, has the same active ingredient or ingredients of the same strength, quantity and form of dosage and is of the same generic type as the drug prescribed. The pharmacist may also make such a substitution if the prescription was written by a practitioner from outside this state and indicates that a substitution may be made.

Sec. 4. NRS 639.2585 is hereby amended to read as follows:

639.2585 1. Except where a substitution is required by *paragraph (a) of* subsection 1 of NRS 639.2583:

(a) Before he makes a substitution, a pharmacist shall advise the person who presents the prescription of:

(1) The generic drug ~~which~~ *that* he proposes to substitute; and

(2) The price difference between the drug under the brand name prescribed and the drug ~~[which]~~ **that** he proposes to substitute.

(b) The person presenting the prescription may refuse to accept the proposed substitution.

2. A pharmacist shall not make any substitution of drugs if the drug to be substituted is higher in cost than the drug prescribed by brand name.

Sec. 5. NRS 639.2587 is hereby amended to read as follows:

639.2587 If , **pursuant to NRS 639.2583**, a generic drug is substituted for a drug prescribed by brand name, the pharmacist or practitioner ~~[-~~

~~1. Shall note]~~ **shall:**

1. Note the name of the manufacturer, packer or distributor of the drug actually dispensed on the prescription; and

2. ~~[May indicate]~~ Indicate the substitution on the label by use of the words "substituted for" following the generic name and preceding the brand name of the drug.

Sec. 6. NRS 639.2589 is hereby amended to read as follows:

639.2589 1. The form for any prescription ~~[which]~~ **that** is issued or intended to be filled in this state must contain a line for the signature of the prescriber . ~~[- the printed words "dispense only as written" and a box near that statement for the purpose of indicating that a substitution may not be made.]~~

2. Substitutions may be made in filling prescriptions contained in the orders of a physician, or of an advanced practitioner of nursing who is a practitioner, in a facility for skilled nursing or facility for intermediate care ~~[- Each page of the document which contains the order must be printed with the words: "The biological equivalent of drugs ordered may be dispensed unless initialed by the prescriber here" and a box must be provided near that statement for the purpose of indicating that a substitution may not be made.]~~ **if the physician or advanced practitioner of nursing who is a practitioner indicates in writing that a substitution may be made.**

3. Substitutions may be made in filling prescriptions ordered **by a practitioner** on a patient's chart in a hospital if the hospital's medical staff has approved a formulary for specific generic substitutions ~~[-]~~ **and the practitioner indicates in writing that a substitution may be made.**

Sec. 7. NRS 639.2599 is hereby amended to read as follows:

639.2599 1. Each practitioner who dispenses drugs shall prominently display at or near the place where prescriptions are dispensed the following information in block letters not less than 1 inch in height:

STATE LAW ALLOWS A LESS EXPENSIVE BIOLOGICALLY
EQUIVALENT DRUG TO BE SUBSTITUTED FOR A DRUG
DESIGNATED BY A TRADE OR BRAND NAME IF IT IS

1 AVAILABLE AND ~~[UNLESS]~~ YOUR PHYSICIAN ~~[REQUESTS~~
2 ~~OTHERWISE.] INDICATES IN WRITING THAT A~~
3 ***SUBSTITUTION MAY BE MADE.***

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5 2. The information required by subsection 1 may be combined with the
6 notice required by NRS 639.28025.

7 **Sec. 8.** NRS 639.2804 is hereby repealed.

8 **Sec. 9.** The amendatory provisions of this act do not apply to conduct
9 that occurred before October 1, 1999.

TEXT OF REPEALED SECTION

639.2804 Filling prescriptions for amygdalin and procaine hydrochloride.

1. A prescription for the substance having the trade name "laetrile" shall be considered as an order for the substance by its generic name, amygdalin. The prescription may be filled with "laetrile" or its generic equivalent.

2. A prescription for the substance having the trade name "Gerovital H3" shall be considered as an order for procaine hydrochloride with preservatives and stabilizers, and the order may be filled using similar products manufactured under other trade names.