

SECOND REGULAR SESSION

HOUSE BILL NO. 2337

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PATTERSON.

5123H.01I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 338.056, RSMo, and to enact in lieu thereof one new section relating to medication orders.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 338.056, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 338.056, to read as follows:

338.056. 1. **For purposes of this section, the term "medication order" shall have the same meaning as used in section 338.165.**

2. Except as provided in subsection [2] 3 of this section, the pharmacist filling prescription **or medication** orders for drug products prescribed by trade or brand name may select another drug product with the same active chemical ingredients of the same strength, quantity and dosage form, and of the same generic drug or interchangeable biological product type, as determined by the United States Adopted Names and accepted by the Federal Food and Drug Administration. Selection pursuant to this section is within the discretion of the pharmacist, except as provided in subsection [2] 3 of this section. The pharmacist who selects the drug or interchangeable biological product to be dispensed pursuant to this section shall assume the same responsibility for selecting the dispensed drug or biological product as would be incurred in filling a prescription **or medication order** for a drug or interchangeable biological product prescribed by generic or interchangeable biologic name. The pharmacist shall not select a drug or interchangeable biological product pursuant to this section unless the product selected costs the patient less than the prescribed product.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 [2-] 3. A pharmacist who receives a prescription **or medication order** for a brand name
17 drug or biological product may select a less expensive generically equivalent or interchangeable
18 biological product unless:

19 (1) The patient requests a brand name drug or biological product; or

20 (2) The prescribing **or ordering** practitioner indicates that substitution is prohibited or
21 displays "brand medically necessary", "dispense as written", "do not substitute", "DAW", or
22 words of similar import on the prescription **or medication order**.

23 [3-] 4. No prescription **or medication order** shall be valid without the **manual or**
24 **electronic** signature of the prescriber, except an electronic prescription.

25 [4-] 5. If an oral prescription **or medication order** is involved, the **prescribing or**
26 **ordering** practitioner or the **prescribing or ordering** practitioner's agent~~[-communicating the~~
27 ~~instructions to the pharmacist,]~~ shall instruct the pharmacist as to whether or not a therapeutically
28 equivalent generic drug or interchangeable biological product may be substituted. The
29 pharmacist shall note the instructions on the file copy of the prescription **or medication order**.

30 [5-] 6. Notwithstanding the provisions of subsection [2] 3 of this section to the contrary,
31 a pharmacist may fill a prescription for a brand name drug by substituting a generically
32 equivalent drug or interchangeable biological product when substitution is allowed in accordance
33 with the laws of the state where the prescribing practitioner is located.

34 [6-] 7. Violations of this section are infractions.

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