

VIRGINIA ACTS OF ASSEMBLY - 2025 SESSION

CHAPTER 270

An Act to amend and reenact § 54.1-3408.03 of the Code of Virginia, relating to prescription drugs; dispensing of therapeutically equivalent drug products; provisions for return of outdated drugs.

[H 2378]

Approved March 21, 2025

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3408.03 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3408.03. Dispensing of therapeutically equivalent drug product permitted.

A. A pharmacist may dispense a therapeutically equivalent drug product for a prescription that is written for a brand-name drug product unless (i) the prescriber indicates such substitution is not authorized by specifying on the prescription, "brand medically necessary" or (ii) the patient insists on the dispensing of the brand-name drug product.

In the case of an oral prescription, the prescriber's oral dispensing instructions regarding substitution shall be followed.

B. Prescribers using prescription blanks printed in compliance with Virginia law in effect on June 30, 2003, having two check boxes and referencing the Virginia Voluntary Formulary, may indicate, until July 1, 2006, that substitution is not authorized by checking the "Dispense as Written" box. If the "Voluntary Formulary Permitted" box is checked on such prescription blanks or if neither box is checked, a pharmacist may dispense a therapeutically equivalent drug product pursuant to such prescriptions.

C. If the pharmacist dispenses a drug product other than the brand name prescribed, he shall so inform the purchaser and shall indicate, unless otherwise directed by the prescriber, on both his permanent record and the prescription label, the brand name or, in the case of a therapeutically equivalent drug product, the name of the manufacturer or the distributor. Whenever a pharmacist dispenses a therapeutically equivalent drug product pursuant to a prescription written for a brand-name product, the pharmacist shall label the drug with the name of the therapeutically equivalent drug product followed by the words "generic for" and the brand name of the drug for which the prescription was written.

D. When a pharmacist dispenses a drug product other than the drug product prescribed, the dispensed drug product shall be at a lower retail price than that of the drug product prescribed. Such retail price shall not exceed the usual and customary retail price charged by the pharmacist for the dispensed therapeutically equivalent drug product.

E. A therapeutically equivalent drug shall be eligible for dispensing only if the manufacturer has established adequate provisions for the return of outdated drugs, through the distributor or otherwise, by pharmacies. Such provisions shall permit pharmacies to return drugs in both full and partial containers up to six months after the label expiration date for full credit or replacement.