

§ 90-85.28. Selection by pharmacists permissible; prescriber may permit or prohibit selection; price limit on selected drugs; communication of dispensed biological products under specified circumstances.

(a) A pharmacist dispensing a prescription for a drug product prescribed by its brand name may select any equivalent drug or interchangeable biological product which meets all of the following standards:

- (1) The manufacturer's name and the distributor's name, if different from the manufacturer's name, shall appear on the label of the stock package.
- (2) It shall be manufactured in accordance with current good manufacturing practices.
- (3) All oral solid dosage forms shall have a logo, or other identification mark, or the product name to identify the manufacturer or distributor.
- (4) The manufacturer shall have adequate provisions for drug recall.
- (5) The manufacturer shall have adequate provisions for return of outdated drugs, through the distributor or otherwise.

(b) The pharmacist shall not select an equivalent drug or interchangeable biological product if the prescriber instructs otherwise by one of the following methods:

- (1) A prescription form shall be preprinted or stamped with two signature lines at the bottom of the form which read:

" _____
Product Selection Permitted _____ Dispense as Written"

On this form, the prescriber shall communicate instructions to the pharmacist by signing the appropriate line.

- (2) In the event the preprinted or stamped prescription form specified in subdivision (1) of subsection (b) of this section is not readily available, the prescriber may handwrite "Dispense as Written" or words or abbreviations of the same meaning on a prescription form.
- (3) When ordering a prescription orally, the prescriber shall specify either that the prescribed drug product be dispensed as written or that product selection is permitted. The pharmacist shall note the instructions on the file copy of the prescription and retain the prescription form for the period prescribed by law.

(b1) A prescription for a narrow therapeutic index drug shall be refilled using only the same drug product by the same manufacturer that the pharmacist last dispensed under the prescription, unless the prescriber is notified by the pharmacist prior to the dispensing of another manufacturer's product, and the prescriber and the patient give documented consent to the dispensing of the other manufacturer's product. For purposes of this subsection, the term "refilled" shall include a new prescription written at the expiration of a prescription which continues the patient's therapy on a narrow therapeutic index drug.

(b2) **(Effective until October 1, 2020 – see note)** Within a reasonable time following the dispensing of a biological product requiring a prescription, the pharmacist or a designee shall communicate to the prescriber the product name and manufacturer of the specific biological product dispensed to the patient. This required communication shall be conveyed by making an entry into an interoperable electronic medical records system, or electronic prescribing technology, or a pharmacy benefit management system, or a pharmacy record that can be electronically accessible by the prescriber. Entry into one of the above referenced methods of communication is presumed to provide the required communication. Otherwise, the pharmacist or a designee shall provide the required communication to the prescriber by facsimile, telephone, electronic transmission, or other prevailing means, provided that communication shall not be required under any of the following circumstances:

- (1) There is no United States Food and Drug Administration-approved interchangeable biological product for the product prescribed.
- (2) A refill prescription is not changed from the product dispensed on the prior filling of the prescription.

(b3) The Board of Pharmacy shall maintain a link on its Internet Web site to the current list of biological products determined by the United States Food and Drug Administration to be interchangeable with a specific biological product.

(b4) **(Effective until October 1, 2020 – see note)** If the State mandates electronic medical records between a pharmacist and a prescriber as described in subsection (b2) of this section, then the pharmacist shall only be required to communicate the biological product dispensed through an electronic medical records system when such a system is in place and the information is accessible by the prescriber.

(c) The pharmacist shall not select an equivalent drug or interchangeable biological product unless its price to the purchaser is less than the price of the prescribed drug product. (1979, c. 1017, s. 1; 1981 (Reg. Sess., 1982), c. 1188, s. 3; 1997-76, s. 2; 2015-27, s. 2.)