

BILL ANALYSIS

Senate Research Center

C.S.S.B. 409
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Health & Human Services
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Nearly two percent of the Texas population has epilepsy and one-third of those patients have medically refractory epilepsy (i.e., epilepsy that is poorly controlled by anti-epileptic medications). Current law allows a pharmacist to make a substitution of a patient's prescribed medication which can cause breakthrough, or unexpected, seizures. However, many people with epilepsy report regularly to the Epilepsy Foundation that they have experienced breakthrough seizures after long periods of seizure control when a formulation of their customary medication was changed. This might occur when a brand name product becomes generic, when a new version of a product is developed, or when a pharmacist obtains the drug from a different manufacturer.

C.S.S.B. 409 prohibits a pharmacist from interchanging an anti-epileptic drug or a formulation of an anti-epileptic drug, brand or generic, unless signed informed consent from the prescribing physician allows for the interchange of the drug.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 562, Occupations Code, by adding Section 562.0141, as follows:

Sec. 562.0141. ANTI-EPILEPTIC DRUG PRODUCT SELECTION PROHIBITED. (a) Defines "anti-epileptic drug," "epilepsy," "seizure," and "interchange."

(b) Prohibits a pharmacist from interchanging an anti-epileptic drug or formulation of an anti-epileptic drug, brand or generic, for the treatment of a patient with seizures or epilepsy without prior notification of and the signed informed consent of such interchange from the prescribing physician, notwithstanding Section 562.014 (Application To Narrow Therapeutic Index Drugs), Occupations Code.

(c) Authorizes a pharmacist, to comply with Subsection (b), to document the notification of a prescribing physician and secure the informed written consent of such physician by contacting the physician orally or electronically to secure permission to interchange an anti-epileptic drug or formulation of an anti-epileptic drug, brand or generic, and reducing such consent to writing. Requires a denial to be documented in the same manner and format. Requires a copy of such communication to be forwarded to the physician and a copy kept with the records of the pharmacist. Requires such documented notification and consent under this subsection to be considered as a statement that the prescription is "brand medically necessary" and is required to be considered part of the prescription, if applicable.

SECTION 2. Amends Subchapter A, Chapter 562, Occupations Code, by adding Section 562.009(e), to require the pharmacist to comply with the provisions of Section 562.0141 if the prescription is for an anti-epileptic drug as defined by Section 562.0141(1).

SECTION 3. Effective date: upon passage or September 1, 2007.