DISTRICT OF COLUMBIA OFFICIAL CODE
TITLE 48. FOOD AND DRUGS
SUBTITLE II. PRESCRIPTION DRUGS
CHAPTER 8. PRESCRIPTION DRUG PRICE INFORMATION

SUBCHAPTER III. SUBSTITUTION OF THERAPEUTICALLY EQUIVALENT DRUGS

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§ 48-803.01. Publication of formulary; procedure for determining contents

The Department of Human Services shall publish a formulary of drug products, with the chemical or generic name of each, that are determined to be therapeutically equivalent to specified brand name drug products. The Department shall determine the contents of the formulary only after recommendations are made by a committee of 9 members appointed by the Director of that Department. The committee shall consist of one licensed physician and one licensed pharmacist employed by the Department, 2 licensed physicians and 3 licensed pharmacists in private practice in the District, and 2 pharmacologists on the faculty of a university in the District. The recommendations of the committee shall require concurrence of a majority of the members of the committee. The committee's recommendations shall be published in the District of Columbia Register as proposed regulations of the Department. The Department's determinations shall be made in accordance with §§ 2-503, 2-504 and 2-505 and published in the District of Columbia Register as final regulations. The committee shall review the published formulary annually, or whenever an amendment to it appears necessary. The committee shall publish its 1st recommendations no later than 8 months after April 7, 1977.

§ 48-803.02. Dispensation of equivalent products by pharmacists -- Conditions under which authorized; prices for prescribed drugs

(a) When a pharmacist receives a prescription for a brand name drug for which 1 or more equivalent drugs are listed in the formulary prepared by the Department of Human Services, the pharmacist may dispense any 1 of the listed equivalent products, and, if a listed equivalent product is dispensed, the pharmacist must dispense the product in stock having the lowest current selling price. The pharmacist shall do so if the purchaser so requests, except as provided in § 48-803.03.

(b) When a pharmacist receives a prescription for a drug by generic name, the pharmacist shall dispense the listed product in stock having the lowest current selling price.

(c) Until the first promulgation of the formulary by the Department of Human Services, pharmacists licensed in the District shall have the same power which they had prior to September 10, 1976, to exercise their professional judgment in selecting the drug product to be dispensed.

§ 48-803.03. Dispensation of equivalent products by pharmacists -- Conditions under which Prohibited

The pharmacist shall not dispense an equivalent drug product under § 48-803.02 if:

(1) The person purchasing the drug product or the patient for whom it is intended indicates a preference for the drug product actually prescribed;

(2) The prescriber, in the case of a written prescription order signed by the prescriber, writes in the prescriber's own handwriting "dispense as written" or "D.A.W." or a similar notation. A procedure for checking or initialing a box, preprinted or stamped on a prescription form, will not constitute an acceptable notation;

(3) The prescriber, in the case of a prescription communicated by telephone, expressly indicates the prescription is to be dispensed as communicated, and this indication is noted in the pharmacist's own handwriting in the manner provided in subsection [2] of this section.

§ 48-803.04. Dispensation of equivalent products by pharmacists -- Recording and labeling required

When a drug is substituted under § 48-803.02, the pharmacist shall record on the prescription form the drug substituted by name and manufacturer, and retain the form for inspection by District officials. The pharmacist shall also label the prescription container with the name of the drug substituted, unless the prescribing physician writes "do not label," or words of similar import, on the prescription, or, in communicating the prescription by telephone, orders that the container not be so labeled.

§ 48-803.05. Dispensation of equivalent products by pharmacists -- Consideration as practice of medicine or evidence of negligence; failure of physician to specify specific brand

(a) The substitution of therapeutically equivalent drugs by a licensed pharmacist under § 48-803.02 shall not constitute the practice of medicine.

(b) Substitution of drugs made in accordance with § 48-803.02 shall not constitute evidence of negligence or improper pharmacy practice if the substitution was made within reasonable and prudent pharmacy practice or if the prescribed and substituted drugs were therapeutically equivalent drugs as determined under this chapter.

(c) Failure of a licensed physician to specify that a specific brand is necessary for the particular patient shall not constitute evidence of negligence unless the physician had reasonable cause to believe that the health of the patient required the use of that brand and no other.