

CHAPTER NO. 564

HOUSE BILL NO. 3065

By Representatives Shepard, Overbey, Kernell, Langster, Hensley, DuBois, Favors, Brown, Fitzhugh, McMillan, Hood, Coleman, Montgomery, Harry Brooks, Hackworth, Towns, Moore, Bo Watson, Bone, Campfield, Yokley, Litz, McDonald, Hill

Substituted for: Senate Bill No. 3070

By Senators Henry, Black, Kyle, Kurita, Woodson

AN ACT to amend Tennessee Code Annotated, Title 53, Chapter 10, Part 2, relative to substitution of generic drugs.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 53-10-204(b), is amended by inserting an apostrophe before the letter "s" in the word "prescribers" where it is located between the words "the" and "own."

SECTION 2. Tennessee Code Annotated, Section 53-10-204(d), is amended by deleting the subsection in its entirety and replacing with the following language:

(d) If the prescriber determines a brand name drug or drug product is medically necessary for a patient and that prescription order is issued by the prescriber in the form of an electronic prescription order or facsimile prescription order, the prescriber shall place, or cause to be placed, the proper instruction on the electronic prescription order or facsimile prescription order prior to it being transmitted to the pharmacist.

SECTION 3. Tennessee Code Annotated, Section 53-10-205(d), is amended by deleting the subsection in its entirety and replacing with the following language:

(d) Nothing in this section shall be construed as prohibiting a pharmacist from complying with the request of a patient with a valid prescription order to obtain a brand name drug or drug product if:

(1) The patient has prescription drug coverage under a prescription benefit plan and agrees to pay the additional cost, if any, of purchasing the brand name drug or drug product as that cost is determined according to the benefits provided by the patient's prescription benefit plan and when such cost sharing as would be required to cover the additional cost is permissible under the patient's prescription benefit plan guidelines and all applicable laws and regulations; or

(2) The patient does not have a prescription benefit plan or the patient's prescription benefit plan does not provide coverage for the brand name drug or drug product and the patient agrees to pay the entire cost at the pharmacy of the brand name drug or drug product.

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the

act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 5. This act shall take effect upon becoming law, the public welfare requiring it.

PASSED: April 10, 2006


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 24th day of April 2006


PHIL BREDESEN, GOVERNOR