

## CHAPTER 704

(House Bill 573)

AN ACT to repeal and re-enact, with amendments, Section 187B(17) of Article 43 of the Annotated Code of Maryland (1971 Supplement), title "Health," subtitle "Adulteration of Food and Drink," and to add new Section 273A to said Article of said Code (1971 Replacement Volume), title "Health," subtitle "Commissioners of Pharmacy," to follow immediately after Section 273 thereof, to remove a certain restriction on dispensing of drugs, to define certain terms, to permit dispensing of different brand or non-brand name drug products under certain circumstances, and relating generally to drug prescriptions.

SECTION 1. *Be it enacted by the General Assembly of Maryland,* That Section 187B(17) of Article 43 of the Annotated Code of Maryland (1971 Supplement), title "Health," subtitle "Adulteration of Food and Drink," be and it is hereby repealed and re-enacted, with amendments; and that new Section 273A be and it is hereby added to said Article of said Code (1971 Replacement Volume), title "Health," subtitle "Commissioners of Pharmacy," to follow immediately after Section 273 thereof, and all to read as follows:

## 187B.

(17) Dispensing or causing to be dispensed a different drug or brand of drug in place of the drug or brand of drug ordered or prescribed without the [express] permission in each case of the person ordering or prescribing.

## 273A.

(a) *As used in this section, "brand name" means the proprietary name the manufacturer places upon a drug product or on its container, label or wrapping at the time of packaging; and "established name" shall have the same meaning as assigned that term by the Federal Food, Drug and Cosmetic Act as amended, Title 21 U.S.C. 301 et seq.*

(b) *Unless the physician or other authorized prescriber explicitly states otherwise when transmitting an oral prescription or in the instance of a written prescription, indicates in his own writing or by personally checking or initialing an appropriate imprinted statement, a different brand name or nonbrand name drug product of the same established name may be dispensed by a pharmacist PROVIDED, HOWEVER, THAT SUCH ACTION BY THE PHARMACIST SHALL BE AUTHORIZED ONLY IF IN EACH CASE THE PHARMACIST IMMEDIATELY TRANSMITS NOTICE IN WRITING TO THE PRESCRIBER SPECIFYING THE DRUG PRODUCT ACTUALLY DISPENSED AND IN THE NAME OF THE MANUFACTURER OR DISTRIBUTOR.*

(c) *THE PROVISIONS OF THIS SECTION SHALL ONLY APPLY TO THOSE DRUGS INCLUDED IN THE MARYLAND MEDICAL ASSISTANCE FORMULARY APPROVED BY THE MARYLAND DEPARTMENT OF HEALTH AND MENTAL HY-*