

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 HOUSE BILL 3836

By: Marti

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6 AS INTRODUCED

7 An Act relating to pharmacy; defining terms;  
8 providing the substitution of an interchangeable  
9 biological product for a prescribed biological  
10 product under certain conditions; requiring  
11 electronic notice of substitution; providing  
12 exceptions; directing State Board of Pharmacy to  
13 maintain link of all interchangeable biological  
14 products; providing for codification; and providing  
15 an effective date.

16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 353.18B of Title 59, unless  
19 there is created a duplication in numbering, reads as follows:

20 A. As used in this section:

21 1. "Biological product" has the same meaning given to that term  
22 in 42 U.S.C., Section 262;

23 2. "Interchangeable biological product" means a biological  
24 product that the United States Food and Drug Administration (USFDA):

- a. has licensed and determined to meet the standards for interchangeability pursuant to 42 U.S.C., Section 262(k)(4) of the Internal Revenue Code, or
- b. has determined is therapeutically equivalent as set forth in the latest edition of or supplement to the USFDA's Approved Drug Products with Therapeutic Equivalence Evaluations, commonly known as the Orange Book.

B. A pharmacist may substitute an interchangeable biological product for a prescribed biological product only if:

1. The substituted product has been determined by the USFDA to be interchangeable with the prescribed biological product;
2. The prescribing physician has permitted substitution; and
3. The pharmacy informs the patient of the substitution.

C. Within five (5) business days following the dispensing of a biological product, the dispensing pharmacist or the pharmacist's designee shall make an entry of the specific product provided to the patient, including the name of the product and the manufacturer. The entry shall be conveyed electronically and be accessible by the prescriber through:

1. An interoperable electronic medical records system;
2. An electronic prescribing technology;
3. A pharmacy benefit management system; or
4. A pharmacy record.

1 D. Entry into an electronic records system as described in  
2 subsection C of this section is presumed to provide notice of the  
3 substituted biological product to the prescriber. If the pharmacist  
4 is unable to comply with subsection C of this section, the  
5 pharmacist shall communicate the biological product dispensed to the  
6 prescriber using facsimile, telephone, electronic transmission or  
7 other prevailing means, except that communication shall not be  
8 required when:

9 1. There is no USFDA-approved interchangeable biological  
10 product for the product prescribed; or

11 2. A refill prescription is not changed from the product  
12 dispensed on the prior filling of the prescription.

13 E. The State Board of Pharmacy shall maintain a link on its  
14 Internet website to the current list of all biological products  
15 determined by the USFDA to be interchangeable with a specific  
16 biological product.

17 SECTION 2. This act shall become effective November 1, 2020.

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