

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**  
4 **By: Senator Ross**

**A BILL ACT 742 OF 1991**  
**SENATE BILL 592**

**For An Act To Be Entitled**

8 "AN ACT TO AMEND ARKANSAS CODE § 17-91-504 TO REMOVE THE  
9 REQUIREMENT THAT THE BOARD OF PHARMACY PROVIDE ALL  
10 PHYSICIANS IN THE STATE A LIST OF THE NONEQUIVALENT DRUG  
11 PRODUCTS AND ALL CHANGES TO THE LIST; AND FOR OTHER  
12 PURPOSES."

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

16 SECTION 1. Arkansas Code § 17-91-504 is hereby amended to read as  
17 follows:

18 "17-91-504. Nonequivalent drug product list.

19 (a) (1) The Board of Pharmacy shall be responsible for determining and  
20 designating drug products which in its best judgment are not equivalent in  
21 quality and effectiveness and which, because of nonequivalency, would pose a  
22 substantial threat to the health, safety, and welfare of the people of  
23 Arkansas if such drug products were subject to dispensing under the provisions  
24 of 17-91-503.

25 (2) The Board of Pharmacy shall promulgate a nonequivalent drug  
26 product list of those drug products which it has determined are not equivalent  
27 in quality and effectiveness.

28 (3) The Board of Pharmacy shall provide a copy of the  
29 nonequivalent drug product list and changes to each pharmacist licensed with  
30 the Board of Pharmacy and to the Arkansas Medical Board.

31 (b) (1) From time to time the Board of Pharmacy shall make such  
32 additions to or deletions from the nonequivalent drug product list as it deems  
33 appropriate and in the best interest and for the health, safety, and welfare  
34 of the people of this state.

35 (2) Notification of additions or deletions promptly shall be made  
36 to each pharmacist licensed with the Board of Pharmacy and to the Arkansas

1 Medical Board.

2 (c) No pharmacist may dispense a generically equivalent drug product as  
3 provided in 17-91-503 if the drug product appears on the current nonequivalent  
4 drug product list as promulgated by the Board of Pharmacy in accordance with  
5 subsection (d) of this section.

6 (d)(1) In determining and designating drug products which are not  
7 equivalent in quality and effectiveness, including the promulgation of the  
8 nonequivalent drug product list and additions and deletions thereto, the Board  
9 of Pharmacy shall comply with the provisions of the Administrative Procedure  
10 Act, as amended, 25-15-201 et seq.

11 (2) However, any opponent to the inclusion within, addition to,  
12 or deletion from the nonequivalent drug product list of any drug product shall  
13 have the burden of proof to show cause why the inclusion, addition, or  
14 deletion should not be made."

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16 SECTION 2. All provisions of this act of general and permanent nature  
17 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
18 Revision Commission shall incorporate the same in the Code.

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20 SECTION 3. If any provisions of this act or the application thereof to  
21 any person or circumstance is held invalid, the invalidity shall not affect  
22 other provisions or applications of the act which can be given effect without  
23 the invalid provisions or application, and to this end the provisions of this  
24 act are declared to be severable.

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26 SECTION 4. All laws and parts of laws in conflict with this act are  
27 hereby repealed.

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29 APPROVED: 3-25-91

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