

58-17b-606 Restrictive drug formulary prohibited.

- (1) As used in this section:
 - (a) "Generic form" means a prescription drug that is available in generic form and has an A rating in the United States Pharmacopeia and Drug Index.
 - (b) "Legend drug" has the same meaning as prescription drug.
 - (c) "Restrictive drug formulary" means a list of legend drugs, other than drugs for cosmetic purposes, that are prohibited by the Department of Health from dispensation, but are approved by the Federal Food and Drug Administration.
- (2) A practitioner may prescribe legend drugs in accordance with this chapter that, in his professional judgment and within the lawful scope of his practice, he considers appropriate for the diagnosis and treatment of his patient.
- (3) Except as provided in Subsection (4), the Department of Health may not maintain a restrictive drug formulary that restricts a physician's ability to treat a patient with a legend drug that has been approved and designated as safe and effective by the Federal Food and Drug Administration, except for drugs for cosmetic purposes.
- (4) When a multisource legend drug is available in the generic form, the Department of Health may only reimburse for the generic form of the drug unless the treating physician demonstrates to the Department of Health a medical necessity for dispensing the nongeneric, brand-name legend drug.
- (5) The Department of Health pharmacists may override the generic mandate provisions of Subsection (4) if a financial benefit will accrue to the state.
- (6) This section does not affect the state's ability to exercise the exclusion options available under the Federal Omnibus Budget Reconciliation Act of 1990.

Amended by Chapter 101, 2010 General Session