(2) [The substitution is recognized in the formulary of authorized substitutions published by the Department under subsection (d) of this section] THE SUBSTITUTION IS RECOGNIZED IN THE UNITED STATES FOOD AND DRUG ADMINISTRATION'S CURRENT LIST OF APPROVED DRUG PRODUCTS WITH THERAPEUTIC EQUIVALENCE EVALUATIONS; and

(3) The consumer is charged less for the substituted drug than the price of the brand name drug.

(c) If a drug product is substituted under this section, the pharmacist shall:

(1) Notify the patient in writing that the drug product dispensed is a generic equivalent of the prescribed drug product; and

(2) Record on the prescription and keep a record of the name and manufacturer of the substituted drug product.

(d) [(1) The Department shall publish and, at least every 6 months, update a formulary that lists those substitutions that may be made under this section. The formulary:

(i) Automatically shall list all drug products that the Commissioner of Food and Drugs has:

1. Approved as safe and effective; and

2. Determined to be therapeutically equivalent;

(ii) Automatically shall list all drug products that:

1. Were not subject to premarketing approval for safety and effectiveness under the Federal Food, Drug, and Cosmetic Act;

2. Are manufactured by firms meeting the requirements of that Act;

3. Are subject to pharmacopoeial standards that are adequate to assure product quality; and

4. Have been determined by the Commissioner of Food and Drugs to meet any other requirements necessary to assure therapeutic equivalence; and

(iii)] THE DEPARTMENT [May] MAY list any additional drug products that are determined by the Department to meet requirements that are adequate to assure product quality and therapeutic equivalence, *AFTER AN OPPORTUNITY FOR PUBLIC COMMENT AS PROVIDED IN TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE*.

[(2) The Department may remove a drug product from the formulary, after opportunity for public comment, that the Department determines is therapeutically nonequivalent or has a negative physical or biological effect on the consumer of that drug product.]