

COMPETITIVE PROBLEMS IN THE DRUG INDUSTRY 12341

... "and yet the prices on those vary tremendously, and if a pharmacist writes a prescription for chloral hydrate, Squibb, which costs \$5.00 per 100 wholesale price, and right next to that bottle on the shelf is Purepak for \$1.48 per 100, it is illegal for that pharmacist to pick the other one, even though he knows that they are manufactured in the same vat."

There are several things wrong with this statement:

(1) Noctec is not simply drawn from the same batches as are used for other chloral hydrates manufactured by Scherer. It is made in separate batches to Squibb's own specifications.

(2) This is a most unrepresentative case, and it cannot be generalized to form a basis for the conclusion that antisubstitution laws are unnecessary. For the major PMA firms, such as Squibb, relatively few products are manufactured by outside firms such as Scherer and Mylan.

Finally, it should be noted that the typical contract manufacturing operation of Scherer does not -- as in the case of chloral hydrate -- involve making the actual drug compound. In the typical case Scherer merely encapsulates the bulk compound supplied by its client manufacturer.

(3) The prices quoted are incorrect. Squibb's catalog price for a single bottle of 100 (.5 gram) Noctec is not \$5.00 but \$4.43, while Purepak's catalog price per single bottle is not \$1.48 but \$2.41. Normally, pharmacists would purchase more than a single bottle. Squibb's price for a dozen bottles, according to the catalog is \$3.99. The layman, reading Dr. Pittman's testimony, might get the impression that consumers have to spend 239 percent more for Noctec than for generic chloral hydrate. Actually, the audit data shows that the average price charged for Noctec in the modal prescription size