A bill to be entitled

An act relating to institutional formularies

established by nursing home facilities; creating s. 400.143, F.S.; providing definitions; authorizing a

nursing home facility to establish and implement an

institutional formulary; requiring a nursing home

facility to establish a committee to develop an

institutional formulary; providing for committee

membership; providing requirements for the development

and implementation of the institutional formulary;

requiring a nursing home facility to maintain the

written policies and procedures for the institutional

formulary; requiring a nursing home facility to make

available such policies and procedures to the Agency

for Health Care Administration, upon request;

requiring a prescriber to annually authorize the use

of the institutional formulary for certain patients;

requiring the prescriber to opt into any changes made

to the institutional formulary; authorizing a

prescriber to opt out of using the institutional

formulary or to prevent a therapeutic substitution

under certain circumstances; prohibiting a nursing

home facility from taking adverse action against a

prescriber for refusing to agree to the use of the

institutional formulary; amending s. 465.025, F.S.;
authorizing a pharmacist to therapeutically substitute medicinal drugs under an institutional formulary established by a nursing home facility under certain circumstances; prohibiting a pharmacist from therapeutically substituting a medicinal drug under certain circumstances; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 400.143, Florida Statutes, is created to read:

400.143  Institutional formularies established by nursing home facilities.—

(1) For purposes of this section, the term:

(a) "Institutional formulary" means a list of medicinal drugs established by a nursing home facility under this section for which a pharmacist may use a therapeutic substitution for a medicinal drug prescribed to a resident of the facility.

(b) "Medicinal drug" has the same meaning as provided in s. 465.003(8).

(c) "Prescriber" has the same meaning as provided in s. 465.025(1).

(d) "Therapeutic substitution" means the practice of replacing a nursing home facility resident's prescribed medicinal drug with another chemically different medicinal drug
that is expected to have the same clinical effect.

(2) A nursing home facility may establish and implement an institutional formulary in accordance with the requirements of this section.

(3) A nursing home facility that implements an institutional formulary under this section must:

(a) Establish a committee to develop the institutional formulary and written guidelines or procedures for such institutional formulary. The committee must consist of, at a minimum:

1. The facility's medical director.
2. The facility's director of nursing services.
3. A consultant pharmacist licensed by the Department of Health and certified under s. 465.0125.

(b) Establish methods and criteria for selecting and objectively evaluating all available pharmaceutical products that may be used as therapeutic substitutes.

(c) Establish policies and procedures for developing and maintaining the institutional formulary and for approving, disseminating, and notifying prescribers of the institutional formulary.

(d) Perform quarterly monitoring to ensure compliance with the policies and procedures established under paragraph (c) and monitor the clinical outcomes in circumstances in which a therapeutic substitution has occurred.
The nursing home facility shall maintain all written policies and procedures for the institutional formulary established under this section. Each nursing home facility shall make available such policies and procedures to the agency, upon request.

(5) (a) A prescriber must annually authorize the institutional formulary for his or her patients. A prescriber must opt into any subsequent changes made to a nursing home facility's institutional formulary.

(b) A prescriber may opt out of the nursing home facility's institutional formulary with respect to a particular patient, medicinal drug, or class of medicinal drugs.

(c) A prescriber may prevent a therapeutic substitution for a specific medication order if such order is provided verbally or generated and transmitted electronically by indicating "NO THERAPEUTIC SUBSTITUTION" on the prescription.

(d) A nursing home facility may not take adverse action against a prescriber for refusing to agree to the use of the facility's institutional formulary.

Section 2. Subsection (9) is added to section 465.025, Florida Statutes, to read:

465.025 Substitution of drugs.—

(9) A pharmacist may therapeutically substitute medicinal drugs in accordance with an institutional formulary established under s. 400.143 for the resident of a nursing home facility if
the prescriber has agreed to the use of such institutional formulary. The pharmacist may not therapeutically substitute a medicinal drug pursuant to the facility's institutional formulary if the prescriber indicates verbally or electronically on the prescription "NO THERAPEUTIC SUBSTITUTION" as authorized under s. 400.143(5)(c).

Section 3. This act shall take effect July 1, 2020.