

FIRST REGULAR SESSION

# HOUSE BILL NO. 1286

102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE STEPHENS.

2642H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To amend chapter 192, RSMo, by adding thereto one new section relating to voluntary nonopioid directive forms, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 192, RSMo, is amended by adding thereto one new section, to be known as section 192.530, to read as follows:

**192.530. 1. As used in this section, the following terms mean:**

(1) "Department", the department of health and senior services;

(2) "Health care provider", the same meaning given to the term in section 376.1350;

(3) "Voluntary nonopioid directive form", a form that may be used by a patient to deny or refuse the administration or prescription of a controlled substance containing an opioid by a health care provider.

2. In consultation with the board of registration for the healing arts and the board of pharmacy, the department shall develop and publish a uniform voluntary nonopioid directive form.

3. The voluntary nonopioid directive form developed by the department shall indicate to all prescribing health care providers that the named patient shall not be offered, prescribed, supplied with, or otherwise administered a controlled substance containing an opioid.

4. The voluntary nonopioid directive form shall be posted in a downloadable format on the department's publicly accessible website.

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

17           **5. (1) A patient may execute and file a voluntary nonopioid directive form with a**  
18 **health care provider. Each health care provider shall sign and date the form in the**  
19 **presence of the patient as evidence of acceptance and shall provide a signed copy of the**  
20 **form to the patient.**

21           **(2) The patient executing and filing a voluntary nonopioid directive form with a**  
22 **health care provider shall sign and date the form in the presence of the health care**  
23 **provider or a designee of the health care provider. In the case of a patient who is unable**  
24 **to execute and file a voluntary nonopioid directive form, the patient may designate a**  
25 **duly authorized guardian or health care proxy to execute and file the form in**  
26 **accordance with subdivision (1) of this subsection.**

27           **(3) A patient may revoke the voluntary nonopioid directive form for any reason**  
28 **and may do so by written or oral means.**

29           **6. The department shall promulgate regulations for the implementation of the**  
30 **voluntary nonopioid directive form that shall include, but not be limited to:**

31           **(1) A standard method for the recording and transmission of the voluntary**  
32 **nonopioid directive form, which shall include verification by the patient's health care**  
33 **provider and shall comply with the written consent requirements of the Public Health**  
34 **Service Act, 42 U.S.C. Section 290dd-2(b), and 42 CFR Part 2, relating to confidentiality**  
35 **of alcohol and drug abuse patient records, provided that the voluntary nonopioid**  
36 **directive form shall also provide the basic procedures necessary to revoke the voluntary**  
37 **nonopioid directive form;**

38           **(2) Procedures to record the voluntary nonopioid directive form in the patient's**  
39 **medical record or, if available, the patient's interoperable electronic medical record;**

40           **(3) Requirements and procedures for a patient to appoint a duly authorized**  
41 **guardian or health care proxy to override a previously filed voluntary nonopioid**  
42 **directive form and circumstances under which an attending health care provider may**  
43 **override a previously filed voluntary nonopioid directive form based on documented**  
44 **medical judgment, which shall be recorded in the patient's medical record;**

45           **(4) Procedures to ensure that any recording, sharing, or distributing of data**  
46 **relative to the voluntary nonopioid directive form complies with all federal and state**  
47 **confidentiality laws; and**

48           **(5) Appropriate exemptions for health care providers and emergency medical**  
49 **personnel to prescribe or administer a controlled substance containing an opioid when,**  
50 **in their professional medical judgment, a controlled substance containing an opioid is**  
51 **necessary.**

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53 The department shall develop and publish guidelines on its publicly accessible website  
54 that shall address, at a minimum, the content of the regulations promulgated under this  
55 subsection. Any rule or portion of a rule, as that term is defined in section 536.010, that  
56 is created under the authority delegated in this section shall become effective only if it  
57 complies with and is subject to all of the provisions of chapter 536 and, if applicable,  
58 section 536.028. This section and chapter 536 are nonseverable and if any of the powers  
59 vested with the general assembly pursuant to chapter 536 to review, to delay the  
60 effective date, or to disapprove and annul a rule are subsequently held unconstitutional,  
61 then the grant of rulemaking authority and any rule proposed or adopted after August  
62 28, 2023, shall be invalid and void.

63 7. A written prescription that is presented at an outpatient pharmacy or a  
64 prescription that is electronically transmitted to an outpatient pharmacy is presumed to  
65 be valid for the purposes of this section, and a pharmacist in an outpatient setting shall  
66 not be held in violation of this section for dispensing a controlled substance in  
67 contradiction to a voluntary nonopioid directive form, except upon evidence that the  
68 pharmacist acted knowingly against the voluntary nonopioid directive form.

69 8. (1) A health care provider or an employee of a health care provider acting in  
70 good faith shall not be subject to criminal or civil liability and shall not be considered to  
71 have engaged in unprofessional conduct for failing to offer or administer a prescription  
72 or medication order for a controlled substance containing an opioid under the voluntary  
73 nonopioid directive form.

74 (2) A person acting as a representative or an agent pursuant to a health care  
75 proxy shall not be subject to criminal or civil liability for making a decision under  
76 subdivision (3) of subsection 6 of this section in good faith.

77 (3) Notwithstanding any other provision of law, a professional licensing board, at  
78 its discretion, may limit, condition, or suspend the license of, or assess fines against, a  
79 health care provider who recklessly or negligently fails to comply with a patient's  
80 voluntary nonopioid directive form.

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