

FIRST REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 41

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR THOMPSON REHDER.

0719S.04P

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 338.010, RSMo, and to enact in lieu thereof two new sections relating to the administration of medications by pharmacists.

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

Section A. Section 338.010, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 338.010 and 338.012, to read as follows:

338.010. 1. The "practice of pharmacy" **[means]**
includes:

(1) The interpretation, implementation, and evaluation of medical prescription orders, including any legend drugs under 21 U.S.C. Section 353[;], **and the** receipt, transmission, or handling of such orders or facilitating the dispensing of such orders;

(2) The designing, initiating, implementing, and monitoring of a medication therapeutic plan **[as defined by the prescription order so long as the prescription order is specific to each patient for care by a pharmacist]** **in accordance with the provisions of this section;**

(3) The compounding, dispensing, labeling, and administration of drugs and devices pursuant to medical

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

15 prescription orders [and administration of viral influenza,
16 pneumonia, shingles, hepatitis A, hepatitis B, diphtheria,
17 tetanus, pertussis, and meningitis vaccines by written
18 protocol authorized by a physician for persons at least
19 seven years of age or the age recommended by the Centers for
20 Disease Control and Prevention, whichever is higher, or the
21 administration of pneumonia, shingles, hepatitis A,
22 hepatitis B, diphtheria, tetanus, pertussis, meningitis, and
23 viral influenza vaccines by written protocol authorized by a
24 physician for a specific patient as authorized by rule];

25 **(4) The ordering and administration of vaccines**
26 **approved or authorized by the U.S. Food and Drug**
27 **Administration, excluding vaccines for cholera, monkeypox,**
28 **Japanese encephalitis, typhoid, rabies, yellow fever, tick-**
29 **borne encephalitis, anthrax, tuberculosis, dengue, Hib,**
30 **polio, rotavirus, smallpox, and any vaccine approved after**
31 **January 1, 2023, to persons at least seven years of age or**
32 **the age recommended by the Centers for Disease Control and**
33 **Prevention, whichever is older, pursuant to joint**
34 **promulgation of rules established by the board of pharmacy**
35 **and the state board of registration for the healing arts**
36 **unless rules are established under a state of emergency as**
37 **described in section 44.100;**

38 **(5) The participation in drug selection according to**
39 **state law and participation in drug utilization reviews;**

40 **(6) The proper and safe storage of drugs and devices**
41 **and the maintenance of proper records thereof;**

42 **(7) Consultation with patients and other health care**
43 **practitioners, and veterinarians and their clients about**
44 **legend drugs, about the safe and effective use of drugs and**
45 **devices;**

46 (8) The prescribing and dispensing of any nicotine
47 replacement therapy product under section 338.665;

48 (9) The dispensing of HIV postexposure prophylaxis
49 pursuant to section 338.730; and

50 (10) The offering or performing of those acts,
51 services, operations, or transactions necessary in the
52 conduct, operation, management and control of a pharmacy.

53 2. No person shall engage in the practice of pharmacy
54 unless he or she is licensed under the provisions of this
55 chapter.

56 3. This chapter shall not be construed to prohibit the
57 use of auxiliary personnel under the direct supervision of a
58 pharmacist from assisting the pharmacist in any of his or
59 her duties. This assistance in no way is intended to
60 relieve the pharmacist from his or her responsibilities for
61 compliance with this chapter and he or she will be
62 responsible for the actions of the auxiliary personnel
63 acting in his or her assistance.

64 4. This chapter shall [also] not be construed to
65 prohibit or interfere with any legally registered
66 practitioner of medicine, dentistry, or podiatry, or
67 veterinary medicine only for use in animals, or the practice
68 of optometry in accordance with and as provided in sections
69 195.070 and 336.220 in the compounding, administering,
70 prescribing, or dispensing of his or her own prescriptions.

71 [2. Any pharmacist who accepts a prescription order
72 for a medication therapeutic plan shall have a written
73 protocol from the physician who refers the patient for
74 medication therapy services.]

75 **5. A pharmacist with a**
76 **certificate of medication therapeutic plan authority may**
77 **provide medication therapy services pursuant to a written**
protocol from a physician licensed under chapter 334 to

78 **patients who have established a physician-patient**
79 **relationship, as described in subdivision (1) of subsection**
80 **1 of section 191.1146, with the protocol physician.** The
81 written protocol [and the prescription order for a
82 medication therapeutic plan] **authorized by this section**
83 shall come **only** from the physician [only,] and shall not
84 come from a nurse engaged in a collaborative practice
85 arrangement under section 334.104, or from a physician
86 assistant engaged in a collaborative practice arrangement
87 under section 334.735.

88 [3.] 6. Nothing in this section shall be construed as
89 to prevent any person, firm or corporation from owning a
90 pharmacy regulated by sections 338.210 to 338.315, provided
91 that a licensed pharmacist is in charge of such pharmacy.

92 [4.] 7. Nothing in this section shall be construed to
93 apply to or interfere with the sale of nonprescription drugs
94 and the ordinary household remedies and such drugs or
95 medicines as are normally sold by those engaged in the sale
96 of general merchandise.

97 [5.] 8. No health carrier as defined in chapter 376
98 shall require any physician with which they contract to
99 enter into a written protocol with a pharmacist for
100 medication therapeutic services.

101 [6.] 9. This section shall not be construed to allow a
102 pharmacist to diagnose or independently prescribe
103 pharmaceuticals.

104 [7.] 10. The state board of registration for the
105 healing arts, under section 334.125, and the state board of
106 pharmacy, under section 338.140, shall jointly promulgate
107 rules regulating the use of protocols [for prescription
108 orders] for medication therapy services [and administration
109 of viral influenza vaccines]. Such rules shall require

110 protocols to include provisions allowing for timely
111 communication between the pharmacist and the [referring]
112 **protocol physician or similar body authorized by this**
113 **section**, and any other patient protection provisions deemed
114 appropriate by both boards. In order to take effect, such
115 rules shall be approved by a majority vote of a quorum of
116 each board. Neither board shall separately promulgate rules
117 regulating the use of protocols for [prescription orders
118 for] medication therapy services [and administration of
119 viral influenza vaccines]. Any rule or portion of a rule,
120 as that term is defined in section 536.010, that is created
121 under the authority delegated in this section shall become
122 effective only if it complies with and is subject to all of
123 the provisions of chapter 536 and, if applicable, section
124 536.028. This section and chapter 536 are nonseverable and
125 if any of the powers vested with the general assembly
126 pursuant to chapter 536 to review, to delay the effective
127 date, or to disapprove and annul a rule are subsequently
128 held unconstitutional, then the grant of rulemaking
129 authority and any rule proposed or adopted after August 28,
130 2007, shall be invalid and void.

131 [8.] 11. The state board of pharmacy may grant a
132 certificate of medication therapeutic plan authority to a
133 licensed pharmacist who submits proof of successful
134 completion of a board-approved course of academic clinical
135 study beyond a bachelor of science in pharmacy, including
136 but not limited to clinical assessment skills, from a
137 nationally accredited college or university, or a
138 certification of equivalence issued by a nationally
139 recognized professional organization and approved by the
140 board of pharmacy.

141 [9.] 12. Any pharmacist who has received a certificate
142 of medication therapeutic plan authority may engage in the
143 designing, initiating, implementing, and monitoring of a
144 medication therapeutic plan as defined by a [prescription
145 order] **written protocol** from a physician that [is] **may be**
146 specific to each patient for care by a pharmacist.

147 [10.] 13. Nothing in this section shall be construed
148 to allow a pharmacist to make a therapeutic substitution of
149 a pharmaceutical prescribed by a physician unless authorized
150 by the written protocol or the physician's prescription
151 order.

152 [11.] 14. "Veterinarian", "doctor of veterinary
153 medicine", "practitioner of veterinary medicine", "DVM",
154 "VMD", "BVSe", "BVMS", "BSe (Vet Science)", "VMB", "MRCVS",
155 or an equivalent title means a person who has received a
156 doctor's degree in veterinary medicine from an accredited
157 school of veterinary medicine or holds an Educational
158 Commission for Foreign Veterinary Graduates (EDFVG)
159 certificate issued by the American Veterinary Medical
160 Association (AVMA).

161 [12.] 15. In addition to other requirements
162 established by the joint promulgation of rules by the board
163 of pharmacy and the state board of registration for the
164 healing arts:

165 (1) A pharmacist shall administer vaccines by protocol
166 in accordance with treatment guidelines established by the
167 Centers for Disease Control and Prevention (CDC);

168 (2) A pharmacist who is administering a vaccine shall
169 request a patient to remain in the pharmacy a safe amount of
170 time after administering the vaccine to observe any adverse
171 reactions. Such pharmacist shall have adopted emergency
172 treatment protocols;

173 [(3)] 16. In addition to other requirements by the
174 board, a pharmacist shall receive additional training as
175 required by the board and evidenced by receiving a
176 certificate from the board upon completion, and shall
177 display the certification in his or her pharmacy where
178 vaccines are delivered.

179 [13.] 17. A pharmacist shall inform the patient that
180 the administration of [the] a vaccine will be entered into
181 the ShowMeVax system, as administered by the department of
182 health and senior services. The patient shall attest to the
183 inclusion of such information in the system by signing a
184 form provided by the pharmacist. If the patient indicates
185 that he or she does not want such information entered into
186 the ShowMeVax system, the pharmacist shall provide a written
187 report within fourteen days of administration of a vaccine
188 to the patient's health care provider, if provided by the
189 patient, containing:

- 190 (1) The identity of the patient;
- 191 (2) The identity of the vaccine or vaccines
192 administered;
- 193 (3) The route of administration;
- 194 (4) The anatomic site of the administration;
- 195 (5) The dose administered; and
- 196 (6) The date of administration.

197 **18. A pharmacist licensed under this chapter may order**
198 **and administer vaccines approved or authorized by the U.S.**
199 **Food and Drug Administration to address a public health**
200 **need, as lawfully authorized by the state or federal**
201 **government, or a department or agency thereof, during a**
202 **state or federally declared public health emergency.**

 338.012. 1. A pharmacist with a certificate of
2 medication therapeutic plan authority may provide influenza,

3 group A streptococcus, and COVID-19 medication therapy
4 services pursuant to a statewide standing order issued by
5 the director or chief medical officer of the department of
6 health and senior services if that person is a licensed
7 physician, or a licensed physician designated by the
8 department of health and senior services.

9 2. The state board of registration for the healing
10 arts, pursuant to section 334.125, and the state board of
11 pharmacy, pursuant to section 338.140, shall jointly
12 promulgate rules to implement the provisions of this
13 section. Any rule or portion of a rule, as that term is
14 defined in section 536.010, that is created under the
15 authority delegated in this section shall become effective
16 only if it complies with and is subject to all of the
17 provisions of chapter 536 and, if applicable, section
18 536.028. This section and chapter 536 are nonseverable and
19 if any of the powers vested with the general assembly
20 pursuant to chapter 536 to review, to delay the effective
21 date, or to disapprove and annul a rule are subsequently
22 held unconstitutional, then the grant of rulemaking
23 authority and any rule proposed or adopted after August 28,
24 2023, shall be invalid and void.

✓