

SECOND REGULAR SESSION

# HOUSE BILL NO. 2428

## 99TH GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE STEPHENS (128).

6005H.021

D. ADAM CRUMBLISS, Chief Clerk

---

### AN ACT

To repeal section 338.010, RSMo, and to enact in lieu thereof one new section relating to the administration of vaccines.

---

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

Section A. Section 338.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 338.010, to read as follows:

338.010. 1. The "practice of pharmacy" means the interpretation, implementation, and evaluation of medical prescription orders, including any legend drugs under 21 U.S.C. Section 353; receipt, transmission, or handling of such orders or facilitating the dispensing of such orders; 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; the compounding, dispensing, labeling, and administration of drugs and devices pursuant to medical prescription orders and administration of viral influenza, pneumonia, shingles, hepatitis A, hepatitis B, diphtheria, tetanus, pertussis, and meningitis vaccines by written protocol authorized by a physician for persons ~~[twelve]~~ **seven** years of age or ~~[older as authorized by rule]~~ **the age recommended by the Centers for Disease Control and Prevention, whichever is higher**, or the administration of pneumonia, shingles, hepatitis A, hepatitis B, diphtheria, tetanus, pertussis, ~~[and]~~ meningitis, **and viral influenza** vaccines by written protocol authorized by a physician for a specific patient as authorized by rule; the participation in drug selection according to state law and participation in drug utilization reviews; the proper and safe storage of drugs and devices and the maintenance of proper records thereof; consultation with patients and other health care practitioners, and veterinarians and their clients about legend drugs, about the safe and effective use of drugs and devices; and the offering or

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.

18 performing of those acts, services, operations, or transactions necessary in the conduct, operation,  
19 management and control of a pharmacy. No person shall engage in the practice of pharmacy  
20 unless he is licensed under the provisions of this chapter. This chapter shall not be construed to  
21 prohibit the use of auxiliary personnel under the direct supervision of a pharmacist from assisting  
22 the pharmacist in any of his or her duties. This assistance in no way is intended to relieve the  
23 pharmacist from his or her responsibilities for compliance with this chapter and he or she will  
24 be responsible for the actions of the auxiliary personnel acting in his or her assistance. This  
25 chapter shall also not be construed to prohibit or interfere with any legally registered practitioner  
26 of medicine, dentistry, or podiatry, or veterinary medicine only for use in animals, or the practice  
27 of optometry in accordance with and as provided in sections 195.070 and 336.220 in the  
28 compounding, administering, prescribing, or dispensing of his or her own prescriptions.

29         2. Any pharmacist who accepts a prescription order for a medication therapeutic plan  
30 shall have a written protocol from the physician who refers the patient for medication therapy  
31 services. The written protocol and the prescription order for a medication therapeutic plan shall  
32 come from the physician only, and shall not come from a nurse engaged in a collaborative  
33 practice arrangement under section 334.104, or from a physician assistant engaged in a  
34 supervision agreement under section 334.735.

35         3. Nothing in this section shall be construed as to prevent any person, firm or corporation  
36 from owning a pharmacy regulated by sections 338.210 to 338.315, provided that a licensed  
37 pharmacist is in charge of such pharmacy.

38         4. Nothing in this section shall be construed to apply to or interfere with the sale of  
39 nonprescription drugs and the ordinary household remedies and such drugs or medicines as are  
40 normally sold by those engaged in the sale of general merchandise.

41         5. No health carrier as defined in chapter 376 shall require any physician with which they  
42 contract to enter into a written protocol with a pharmacist for medication therapeutic services.

43         6. This section shall not be construed to allow a pharmacist to diagnose or independently  
44 prescribe pharmaceuticals.

45         7. The state board of registration for the healing arts, under section 334.125, and the state  
46 board of pharmacy, under section 338.140, shall jointly promulgate rules regulating the use of  
47 protocols for prescription orders for medication therapy services [~~and administration of viral~~  
48 ~~influenza vaccines~~]. Such rules shall require protocols to include provisions allowing for timely  
49 communication between the pharmacist and the referring physician, and any other patient  
50 protection provisions deemed appropriate by both boards. In order to take effect, such rules shall  
51 be approved by a majority vote of a quorum of each board. Neither board shall separately  
52 promulgate rules regulating the use of protocols for prescription orders for medication therapy  
53 services [~~and administration of viral influenza vaccines~~]. Any rule or portion of a rule, as that

54 term is defined in section 536.010, that is created under the authority delegated in this section  
55 shall become effective only if it complies with and is subject to all of the provisions of chapter  
56 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any  
57 of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the  
58 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the  
59 grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be  
60 invalid and void.

61 8. The state board of pharmacy may grant a certificate of medication therapeutic plan  
62 authority to a licensed pharmacist who submits proof of successful completion of a  
63 board-approved course of academic clinical study beyond a bachelor of science in pharmacy,  
64 including but not limited to clinical assessment skills, from a nationally accredited college or  
65 university, or a certification of equivalence issued by a nationally recognized professional  
66 organization and approved by the board of pharmacy.

67 9. Any pharmacist who has received a certificate of medication therapeutic plan authority  
68 may engage in the designing, initiating, implementing, and monitoring of a medication  
69 therapeutic plan as defined by a prescription order from a physician that is specific to each  
70 patient for care by a pharmacist.

71 10. Nothing in this section shall be construed to allow a pharmacist to make a therapeutic  
72 substitution of a pharmaceutical prescribed by a physician unless authorized by the written  
73 protocol or the physician's prescription order.

74 11. "Veterinarian", "doctor of veterinary medicine", "practitioner of veterinary  
75 medicine", "DVM", "VMD", "BVSe", "BVMS", "BSe (Vet Science)", "VMB", "MRCVS", or  
76 an equivalent title means a person who has received a doctor's degree in veterinary medicine  
77 from an accredited school of veterinary medicine or holds an Educational Commission for  
78 Foreign Veterinary Graduates (EDFVG) certificate issued by the American Veterinary Medical  
79 Association (AVMA).

80 12. In addition to other requirements established by the joint promulgation of rules by  
81 the board of pharmacy and the state board of registration for the healing arts:

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

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

87 (3) In addition to other requirements by the board, a pharmacist shall receive additional  
88 training as required by the board and evidenced by receiving a certificate from the board upon

89 completion, and shall display the certification in his or her pharmacy where vaccines are  
90 delivered.

91           13. A pharmacist shall inform the patient that the administration of the vaccine  
92 shall be entered into the ShowMeVax system, as administered by the department of health  
93 and senior services. The patient shall attest to the inclusion of such information in the  
94 system by signing a form provided by the pharmacist. If the patient indicates that he or  
95 she does not want such information entered into the ShowMeVax system, the pharmacist  
96 shall provide a written report within fourteen days of administration of a vaccine to the patient's  
97 primary health care provider, if provided by the patient, containing:

- 98           (1) The identity of the patient;  
99           (2) The identity of the vaccine or vaccines administered;  
100           (3) The route of administration;  
101           (4) The anatomic site of the administration;  
102           (5) The dose administered; and  
103           (6) The date of administration.

✓