

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 725
100TH GENERAL ASSEMBLY

1622H.03C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 338.010, RSMo, and to enact in lieu thereof two new sections relating to the prescribing and dispensing of nicotine replacement therapy products.

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Section A. Section 338.010, RSMo, is repealed and two new sections enacted in lieu
2 thereof, to be known as sections 338.010 and 338.800, to read as follows:

338.010. 1. The "practice of pharmacy" means the interpretation, implementation, and
2 evaluation of medical prescription orders, including any legend drugs under 21 U.S.C. Section
3 353; receipt, transmission, or handling of such orders or facilitating the dispensing of such
4 orders; the designing, initiating, implementing, and monitoring of a medication therapeutic plan
5 as defined by the prescription order so long as the prescription order is specific to each patient
6 for care by a pharmacist; the compounding, dispensing, labeling, and administration of drugs and
7 devices pursuant to medical prescription orders and administration of viral influenza, pneumonia,
8 shingles, hepatitis A, hepatitis B, diphtheria, tetanus, pertussis, and meningitis vaccines by
9 written protocol authorized by a physician for persons at least seven years of age or the age
10 recommended by the Centers for Disease Control and Prevention, whichever is higher, or the
11 administration of pneumonia, shingles, hepatitis A, hepatitis B, diphtheria, tetanus, pertussis,
12 meningitis, and viral influenza vaccines by written protocol authorized by a physician for a
13 specific patient as authorized by rule; the participation in drug selection according to state law
14 and participation in drug utilization reviews; the proper and safe storage of drugs and devices and
15 the maintenance of proper records thereof; consultation with patients and other health care
16 practitioners, and veterinarians and their clients about legend drugs, about the safe and effective
17 use of drugs and devices; **the prescribing and dispensing of any nicotine replacement**
18 **therapy product under section 338.800;** and the offering or performing of those acts, services,

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

338.800. 1. For the purposes of this chapter, "nicotine replacement therapy product" means any drug or product, regardless of whether it is available over-the-counter, that delivers small doses of nicotine to a person and that is approved by the federal Food and Drug Administration for the sole purpose of aiding in tobacco cessation or smoking cessation.

6 **2. The board of pharmacy and the board of healing arts shall jointly promulgate**
7 **rules governing a pharmacist's authority to prescribe and dispense nicotine replacement**
8 **therapy products. Neither board shall separately promulgate rules governing a**
9 **pharmacist's authority to prescribe and dispense nicotine replacement therapy products**
10 **under this subsection.**

11 **3. Nothing in this section shall be construed to require third party payment for**
12 **services described in this section.**

13 **4. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
14 **created under the authority delegated in this section shall become effective only if it**
15 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
16 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**
17 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
18 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
19 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2019,**
20 **shall be invalid and void.**

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