

FIRST REGULAR SESSION

HOUSE BILL NO. 1234

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE STEPHENS (128).

2467H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

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

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Section A. Section 338.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 338.010, to read as follows: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 at least seven years of age or 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, 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 performing of those acts, services, operations, 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 transactions necessary in the conduct, operation, management and control of a pharmacy; **and**
19 **the provision of medication therapy services, including authority to prescribe drugs and**
20 **controlled substances, according to a written medication therapy services protocol.** No
21 person shall engage in the practice of pharmacy unless he is licensed under the provisions of this
22 chapter. This chapter shall not be construed to prohibit the use of auxiliary personnel under the
23 direct supervision of a pharmacist from assisting the pharmacist in any of his or her duties. This
24 assistance in no way is intended to relieve the pharmacist from his or her responsibilities for
25 compliance with this chapter and he or she will be responsible for the actions of the auxiliary
26 personnel acting in his or her assistance. This chapter shall also not be construed to prohibit or
27 interfere with any legally registered practitioner of medicine, dentistry, or podiatry, or veterinary
28 medicine only for use in animals, or the practice of optometry in accordance with and as
29 provided in sections 195.070 and 336.220 in the compounding, administering, prescribing, or
30 dispensing of his or her own prescriptions.

31 2. Any pharmacist who ~~[accepts a prescription order for a medication therapeutic plan]~~
32 **provides medication therapy services** shall have a written **medication therapy services**
33 protocol from the physician ~~[who refers the patient for medication therapy services]~~. The written
34 **medication therapy services** protocol ~~[and the prescription order for a medication therapeutic~~
35 ~~plan]~~ shall come from the physician only, and shall not come from a nurse engaged in a
36 collaborative practice arrangement under section 334.104, **or an assistant physician in**
37 **accordance with section 334.037** or from a physician assistant engaged in a supervision
38 agreement under section 334.735.

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

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

45 5. No health carrier as defined in chapter 376 shall require any physician with which they
46 contract to enter into a written protocol with a pharmacist for medication ~~[therapeutic]~~ **therapy**
47 services.

48 6. This section shall not be construed to allow a pharmacist to diagnose ~~[or~~
49 ~~independently prescribe pharmaceuticals]~~.

50 7. The state board of registration for the healing arts, under section 334.125, and the state
51 board of pharmacy, under section 338.140, shall jointly promulgate rules regulating the use of
52 protocols ~~[for prescription orders]~~ for medication therapy services and administration of viral
53 ~~[influenza]~~ vaccines. Such rules shall require protocols to include provisions allowing for timely

54 communication between the pharmacist and the referring physician, and any other patient
55 protection provisions deemed appropriate by both boards. In order to take effect, such rules shall
56 be approved by a majority vote of a quorum of each board. Neither board shall separately
57 promulgate rules regulating the use of protocols for prescription orders for medication therapy
58 services and administration of viral influenza vaccines. Any rule or portion of a rule, as that term
59 is defined in section 536.010, that is created under the authority delegated in this section shall
60 become effective only if it complies with and is subject to all of the provisions of chapter 536
61 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of
62 the powers vested with the general assembly pursuant to chapter 536 to review, to delay the
63 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
64 grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be
65 invalid and void.

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

72 9. Any pharmacist who has received a certificate of medication ~~[therapeutic plan]~~
73 **therapy services** authority may engage in the ~~[designing, initiating, implementing, and~~
74 ~~monitoring of a medication therapeutic plan as defined by a prescription order from a physician~~
75 ~~that is specific to each patient for care by a pharmacist]~~ **provision of medication therapy**
76 **services.**

77 10. Nothing in this section shall be construed to allow a pharmacist to make a therapeutic
78 substitution of a pharmaceutical prescribed by a physician unless authorized by the written
79 **medication therapy services** protocol or the physician's prescription order.

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

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

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

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

93 (3) In addition to other requirements by the board, a pharmacist shall receive additional
94 training as required by the board and evidenced by receiving a certificate from the board upon
95 completion, and shall display the certification in his or her pharmacy where vaccines are
96 delivered.

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

- 104 (1) The identity of the patient;
105 (2) The identity of the vaccine or vaccines administered;
106 (3) The route of administration;
107 (4) The anatomic site of the administration;
108 (5) The dose administered; and
109 (6) The date of administration.

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