

FIRST REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 370

## 101ST GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE CHRISTOFANELLI.

0723H.01P

DANA RADEMAN MILLER, Chief Clerk

---

### AN ACT

To repeal section 338.010, RSMo, and to enact in lieu thereof three new sections relating to HIV prevention.

---

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

Section A. Section 338.010, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 338.010, 338.730, and 338.735, to read as follows: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

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.

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 therapy  
18 product under section 338.665; **the dispensing of HIV preexposure prophylaxis under section**  
19 **338.730; the dispensing of HIV postexposure prophylaxis under section 338.735;** and the  
20 offering or performing of those acts, services, operations, or transactions necessary in the  
21 conduct, operation, management and control of a pharmacy. No person shall engage in the  
22 practice of pharmacy unless he or she is licensed under the provisions of this chapter. This  
23 chapter shall not be construed to prohibit the use of auxiliary personnel under the direct  
24 supervision of a pharmacist from assisting the pharmacist in any of his or her duties. This  
25 assistance in no way is intended to relieve the pharmacist from his or her responsibilities for  
26 compliance with this chapter and he or she will be responsible for the actions of the auxiliary  
27 personnel acting in his or her assistance. This chapter shall also not be construed to prohibit or  
28 interfere with any legally registered practitioner of medicine, dentistry, or podiatry, or veterinary  
29 medicine only for use in animals, or the practice of optometry in accordance with and as  
30 provided in sections 195.070 and 336.220 in the compounding, administering, prescribing, or  
31 dispensing of his or her own prescriptions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**338.730. 1. Notwithstanding any other law to the contrary, a pharmacist may  
2 dispense HIV preexposure prophylaxis in accordance with this section. Such prophylaxis  
3 shall be dispensed only if the pharmacist follows a written protocol authorized by a  
4 licensed physician.**

**5 2. For purposes of this section, "preexposure prophylaxis" shall mean any drug  
6 approved by the Food and Drug Administration that meets the same clinical eligibility  
7 recommendations provided in CDC guidelines.**

**8 3. For purposes of this section, "CDC guidelines" shall mean the current HIV  
9 guidelines published by the federal Centers for Disease Control and Prevention.**

**10 4. The state board of registration for the healing arts and the state board of  
11 pharmacy shall jointly promulgate rules and regulations for the administration of this  
12 section. Neither board shall separately promulgate rules governing a pharmacist's  
13 authority to dispense HIV preexposure prophylaxis under this section.**

**14 5. A pharmacist may furnish a thirty-day supply of preexposure prophylaxis to a  
15 patient if all of the following conditions are met:**

16           (1) The patient is HIV negative, as documented by a negative HIV test result  
17 obtained within the previous seven days from an HIV antigen/antibody test or antibody-  
18 only test or from a rapid point-of-care fingerstick blood test approved by the federal Food  
19 and Drug Administration. If the patient does not provide evidence of a negative HIV test  
20 in accordance with this subdivision, the pharmacist shall order an HIV test. If the test  
21 results are not transmitted directly to the pharmacist, the pharmacist shall verify the test  
22 results to the pharmacist's satisfaction. If the patient tests positive for HIV infection, the  
23 pharmacist or person administering the test shall direct the patient to a health care  
24 provider and provide a list of providers and clinics in the region;

25           (2) The patient does not report any signs or symptoms of acute HIV infection on  
26 a self-reported checklist of acute HIV infection signs and symptoms;

27           (3) The patient does not report taking any contraindicated medications;

28           (4) A pharmacist provides counseling to the patient on the ongoing use of  
29 preexposure prophylaxis, which may include education about side effects, safety during  
30 pregnancy and breast-feeding, adherence to recommended dosing, and the importance of  
31 timely testing and treatment, as applicable, for HIV, renal function, hepatitis B, hepatitis  
32 C, sexually transmitted diseases, and pregnancy for individuals of child-bearing capacity.  
33 The pharmacist shall not permit the patient to waive the counseling required under this  
34 subdivision; and

35           (5) A pharmacist notifies the patient's health care provider that the pharmacist  
36 completed the requirements specified in this section. If the patient does not have a health  
37 care provider or refuses consent to notify the patient's health care provider, the pharmacist  
38 shall provide the patient a list of physicians and surgeons, clinics, or other health care  
39 providers to contact regarding ongoing care for preexposure prophylaxis.

40           6. A pharmacist shall notify the patient that the patient shall be seen by a health  
41 care provider to receive subsequent prescriptions for preexposure prophylaxis and that a  
42 pharmacist shall not furnish a thirty-day supply of preexposure prophylaxis to a single  
43 patient more than once every two years.

44           7. A pharmacist shall document, to the extent possible, the services provided by the  
45 pharmacist in the patient's record in the record system maintained by the pharmacy. The  
46 pharmacist shall maintain records of preexposure prophylaxis furnished to each patient.

47           8. A pharmacist shall not furnish, under the provisions of this section, a thirty-day  
48 supply of preexposure prophylaxis to a single patient more than once every two years. A  
49 pharmacist may furnish more than a thirty-day supply of preexposure prophylaxis to a  
50 single patient if directed by a prescriber.

51           **9. Any rule or portion of a rule, as that term is defined in section 536.010, that is**  
52 **created under the authority delegated in this section shall become effective only if it**  
53 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**  
54 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**  
55 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**  
56 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**  
57 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2021,**  
58 **shall be invalid and void.**

**338.735. 1. Notwithstanding any other law to the contrary, a pharmacist may**  
2 **dispense HIV postexposure prophylaxis in accordance with this section. Such prophylaxis**  
3 **shall be dispensed only if the pharmacist follows a written protocol authorized by a**  
4 **licensed physician.**

5           **2. For purposes of this section, "postexposure prophylaxis" shall mean any drug**  
6 **approved by the Food and Drug Administration that meets the same clinical eligibility**  
7 **recommendations provided in CDC guidelines.**

8           **3. For purposes of this section, "CDC guidelines" shall mean the current HIV**  
9 **guidelines published by the federal Centers for Disease Control and Prevention.**

10          **4. The state board of registration for the healing arts and the state board of**  
11 **pharmacy shall jointly promulgate rules and regulations for the administration of this**  
12 **section. Neither board shall separately promulgate rules governing a pharmacist's**  
13 **authority to dispense HIV postexposure prophylaxis under this section.**

14          **5. Any rule or portion of a rule, as that term is defined in section 536.010, that is**  
15 **created under the authority delegated in this section shall become effective only if it**  
16 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**  
17 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**  
18 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**  
19 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**  
20 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2021,**  
21 **shall be invalid and void.**

✓