

FIRST REGULAR SESSION

HOUSE BILL NO. 1428

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COOK.

1567H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 338.010, RSMo, and to enact in lieu thereof four new sections relating to prescriptions 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Section A. Section 338.010, RSMo, is repealed and four new sections enacted in lieu thereof, to be known as sections 338.010, 338.820, 338.825, and 338.830, to read as follows: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; the prescribing and dispensing of any nicotine replacement therapy

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 product under section 338.665; **the prescribing and dispensing of any epinephrine auto-**
19 **injector under section 338.820; the prescribing and dispensing of any inhaler under section**
20 **338.825; the prescribing and dispensing of insulin under section 338.830;** and the offering
21 or performing of those acts, services, operations, or transactions necessary in the conduct,
22 operation, management and control of a pharmacy. No person shall engage in the practice of
23 pharmacy unless he or she is licensed under the provisions of this chapter. This chapter shall not
24 be construed to prohibit the use of auxiliary personnel under the direct supervision of a
25 pharmacist from assisting the pharmacist in any of his or her duties. This assistance in no way
26 is intended to relieve the pharmacist from his or her responsibilities for compliance with this
27 chapter and he or she will be responsible for the actions of the auxiliary personnel acting in his
28 or her assistance. This chapter shall also not be construed to prohibit or interfere with any legally
29 registered practitioner of medicine, dentistry, or podiatry, or veterinary medicine only for use in
30 animals, or the practice of optometry in accordance with and as provided in sections 195.070 and
31 336.220 in the compounding, administering, prescribing, or dispensing of his or her own
32 prescriptions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

338.820. 1. For purposes of this section, the term "epinephrine auto-injector"
2 **means a single-use device used for the automatic injection of a premeasured dose of**
3 **epinephrine into the human body.**

4 **2. Notwithstanding any other provision of law, a pharmacist may prescribe and**
5 **dispense epinephrine auto-injectors in accordance with rules promulgated under this**
6 **section.**

7 **3. The board of pharmacy and the state board of registration for the healing arts**
8 **shall jointly promulgate rules governing a pharmacist's authority to prescribe and dispense**
9 **epinephrine auto-injectors. Neither board shall separately promulgate rules governing a**
10 **pharmacist's authority to prescribe and dispense epinephrine auto-injectors.**

11 **4. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
12 **created under the authority delegated in this section shall become effective only if it**
13 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
14 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**
15 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
16 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**

17 grant of rulemaking authority and any rule proposed or adopted after August 28, 2021,
18 shall be invalid and void.

338.825. 1. For purposes of this section, the term "inhaler" means a device that
2 delivers medication to alleviate or prevent asthmatic symptoms, that is manufactured in
3 the form of a metered dose inhaler or dry powder inhaler, and that may include a spacer,
4 holding chamber, or other device that attaches to the inhaler and is used to improve the
5 delivery of the medication.

6 2. Notwithstanding any other provision of law, a pharmacist may prescribe and
7 dispense inhalers in accordance with rules promulgated under this section.

8 3. The board of pharmacy and the state board of registration for the healing arts
9 shall jointly promulgate rules governing a pharmacist's authority to prescribe and dispense
10 inhalers. Neither board shall separately promulgate rules governing a pharmacist's
11 authority to prescribe and dispense inhalers.

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

338.830. 1. For purposes of this section, the term "insulin" means a drug that
2 contains insulin and is used to treat diabetes.

3 2. Notwithstanding any other provision of law, a pharmacist may prescribe and
4 dispense insulin in accordance with rules promulgated under this section.

5 3. The board of pharmacy and the state board of registration for the healing arts
6 shall jointly promulgate rules governing a pharmacist's authority to prescribe and dispense
7 insulin. Neither board shall separately promulgate rules governing a pharmacist's
8 authority to prescribe and dispense insulin.

9 4. Any rule or portion of a rule, as that term is defined in section 536.010, that is
10 created under the authority delegated in this section shall become effective only if it
11 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
12 section 536.028. This section and chapter 536 are nonseverable, and if any of the powers
13 vested with the general assembly pursuant to chapter 536 to review, to delay the effective
14 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the

15 **grant of rule making authority and any rule proposed or adopted after August 28, 2021,**
16 **shall be invalid and void.**

✓