

FIRST REGULAR SESSION

HOUSE BILL NO. 1138

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE INGLE.

0552H.02I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 338.010, RSMo, and to enact in lieu thereof two new sections relating to contraceptives.

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Section A. Section 338.010, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 338.010 and 338.720, to read as follows: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; **the** 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

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 and devices; the prescribing and dispensing of any nicotine replacement therapy product
19 under section 338.665; the dispensing of HIV postexposure prophylaxis pursuant to section
20 338.730; **the dispensing of self-administered hormonal contraceptives under section**
21 **338.720**; and the offering or performing of those acts, services, operations, or transactions
22 necessary in the conduct, operation, management and control of a pharmacy. No person shall
23 engage in the practice of pharmacy unless he or she is licensed under the provisions of this
24 chapter. This chapter shall not be construed to prohibit the use of auxiliary personnel under
25 the direct supervision of a pharmacist from assisting the pharmacist in any of his or her duties.
26 This assistance in no way is intended to relieve the pharmacist from his or her responsibilities
27 for compliance with this chapter and he or she will be responsible for the actions of the
28 auxiliary personnel acting in his or her assistance. This chapter shall also not be construed to
29 prohibit or interfere with any legally registered practitioner of medicine, dentistry, or podiatry,
30 or veterinary medicine only for use in animals, or the practice of optometry in accordance
31 with and as provided in sections 195.070 and 336.220 in the compounding, administering,
32 prescribing, or dispensing of his or her own 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
36 shall come from the physician only, and shall not come from a nurse engaged in a
37 collaborative practice arrangement under section 334.104, or from a physician assistant
38 engaged in a collaborative practice arrangement under section 334.735.

39 3. Nothing in this section shall be construed as to prevent any person, firm or
40 corporation from owning a pharmacy regulated by sections 338.210 to 338.315, provided that
41 a licensed 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
44 are 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
46 they contract to enter into a written protocol with a pharmacist for medication therapeutic
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
51 state board of pharmacy, under section 338.140, shall jointly promulgate rules regulating the
52 use of protocols for prescription orders for medication therapy services and administration of
53 viral influenza vaccines. Such rules shall require protocols to include provisions allowing for
54 timely communication between the pharmacist and the referring physician, and any other

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

66 8. The state board of pharmacy may grant a certificate of medication therapeutic plan
67 authority to a licensed pharmacist who submits proof of successful completion of a board-
68 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 authority may engage in the designing, initiating, implementing, and monitoring of a
74 medication therapeutic plan as defined by a prescription order from a physician that is
75 specific to each patient for care by a pharmacist.

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

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

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

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

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

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

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

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

**338.720. 1. For purposes of this section, "self-administered hormonal
2 contraceptive" shall mean a drug composed of a combination of hormones that is
3 approved by the Food and Drug Administration to prevent pregnancy and that the
4 patient to whom the drug is prescribed self-administers.**

**5 2. A pharmacist may dispense self-administered hormonal contraceptives to any
6 person under a prescription order for medication therapy services as described in
7 section 338.010. A prescription order for a self-administered hormonal contraceptive
8 shall have no expiration date.**

**9 3. The board of pharmacy, under section 338.140, and the board of registration
10 for the healing arts, under section 334.125, shall jointly promulgate rules regulating the
11 use of protocols for prescription orders for self-administered hormonal contraceptives.
12 Any rule or portion of a rule, as that term is defined in section 536.010, that is created
13 under the authority delegated in this section shall become effective only if it complies
14 with and is subject to all of the provisions of chapter 536 and, if applicable, section
15 536.028. This section and chapter 536 are nonseverable and if any of the powers vested
16 with the general assembly pursuant to chapter 536 to review, to delay the effective date,
17 or to disapprove and annul a rule are subsequently held unconstitutional, then the grant
18 of rulemaking authority and any rule proposed or adopted after August 28, 2023, shall
19 be invalid and void.**

20 **4. The rules adopted under this section shall require a pharmacist to:**

21 **(1) Complete a training program approved by the board of pharmacy that is**
22 **related to dispensing self-administered hormonal contraceptives under this section;**

23 **(2) Provide a self-screening risk assessment tool that the patient shall use prior**
24 **to the pharmacist's dispensing the self-administered hormonal contraceptive under this**
25 **section;**

26 **(3) Provide the patient with a written record of the self-administered hormonal**
27 **contraceptive dispensed and advise the patient to consult with a health care provider;**
28 **and**

29 **(4) Dispense the self-administered hormonal contraceptive to the patient as soon**
30 **as practicable.**

31 **5. All state and federal laws governing insurance coverage of contraceptive**
32 **drugs, devices, products, and services shall apply to self-administered hormonal**
33 **contraceptives dispensed by a pharmacist under this section.**

34 **6. The provisions of this section shall terminate upon the enactment of any laws**
35 **allowing the provision of hormonal contraceptives from a pharmacist without a**
36 **prescription.**

37 **7. Nothing in this section shall be construed to allow a pharmacist to make a**
38 **therapeutic substitution of a pharmaceutical prescribed by a health care provider unless**
39 **authorized by the written protocol or the health care provider's written prescription**
40 **order.**

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