

FIRST REGULAR SESSION

HOUSE BILL NO. 1102

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE STEPHENS.

2078H.02I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 195.100 and 334.735, RSMo, and to enact in lieu thereof two new sections relating to the labeling of prescriptions.

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

Section A. Sections 195.100 and 334.735, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 195.100 and 334.735, to read as follows:

195.100. 1. It shall be unlawful to distribute any controlled substance in a
2 commercial container unless such container bears a label containing an identifying symbol for
3 such substance in accordance with federal laws.

4 2. It shall be unlawful for any manufacturer of any controlled substance to distribute
5 such substance unless the labeling thereof conforms to the requirements of federal law and
6 contains the identifying symbol required in subsection 1 of this section.

7 3. The label of a controlled substance in Schedule II, III or IV shall, when dispensed
8 to or for a patient, contain a clear, concise warning that it is a criminal offense to transfer such
9 narcotic or dangerous drug to any person other than the patient.

10 4. Whenever a manufacturer sells or dispenses a controlled substance and whenever a
11 wholesaler sells or dispenses a controlled substance in a package prepared by him or her, the
12 manufacturer or wholesaler shall securely affix to each package in which that drug is
13 contained a label showing in legible English the name and address of the vendor and the
14 quantity, kind, and form of controlled substance contained therein. No person except a
15 pharmacist for the purpose of filling a prescription under this chapter, shall alter, deface, or
16 remove any label so affixed.

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.

17 5. Whenever a pharmacist or practitioner sells or dispenses any controlled substance
18 on a prescription issued by a physician, physician assistant, dentist, podiatrist, veterinarian, or
19 advanced practice registered nurse, the pharmacist or practitioner shall affix to the container
20 in which such drug is sold or dispensed a label showing his or her own name and address of
21 the pharmacy or practitioner for whom he or she is lawfully acting; the name of the patient or,
22 if the patient is an animal, the name of the owner of the animal and the species of the animal;
23 the name of the physician, physician assistant, dentist, podiatrist, advanced practice registered
24 nurse, or veterinarian by whom the prescription was written; ~~the name of the collaborating~~
25 ~~physician if the prescription is written by an advanced practice registered nurse or a physician~~
26 ~~assistant;~~ and such directions as may be stated on the prescription. No person shall alter,
27 deface, or remove any label so affixed.

334.735. 1. As used in sections 334.735 to 334.749, the following terms mean:

- 2 (1) "Applicant", any individual who seeks to become licensed as a physician
3 assistant;
- 4 (2) "Certification" or "registration", a process by a certifying entity that grants
5 recognition to applicants meeting predetermined qualifications specified by such certifying
6 entity;
- 7 (3) "Certifying entity", the nongovernmental agency or association which certifies or
8 registers individuals who have completed academic and training requirements;
- 9 (4) "Collaborative practice arrangement", written agreements, jointly agreed upon
10 protocols, or standing orders, all of which shall be in writing, for the delivery of health care
11 services;
- 12 (5) "Department", the department of commerce and insurance or a designated agency
13 thereof;
- 14 (6) "License", a document issued to an applicant by the board acknowledging that the
15 applicant is entitled to practice as a physician assistant;
- 16 (7) "Physician assistant", a person who has graduated from a physician assistant
17 program accredited by the Accreditation Review Commission on Education for the Physician
18 Assistant or its successor agency, prior to 2001, or the Committee on Allied Health Education
19 and Accreditation or the Commission on Accreditation of Allied Health Education Programs,
20 who has passed the certifying examination administered by the National Commission on
21 Certification of Physician Assistants and has active certification by the National Commission
22 on Certification of Physician Assistants who provides health care services delegated by a
23 licensed physician. A person who has been employed as a physician assistant for three years
24 prior to August 28, 1989, who has passed the National Commission on Certification of
25 Physician Assistants examination, and has active certification of the National Commission on
26 Certification of Physician Assistants;

27 (8) "Recognition", the formal process of becoming a certifying entity as required by
28 the provisions of sections 334.735 to 334.749.

29 2. The scope of practice of a physician assistant shall consist only of the following
30 services and procedures:

31 (1) Taking patient histories;

32 (2) Performing physical examinations of a patient;

33 (3) Performing or assisting in the performance of routine office laboratory and patient
34 screening procedures;

35 (4) Performing routine therapeutic procedures;

36 (5) Recording diagnostic impressions and evaluating situations calling for attention of
37 a physician to institute treatment procedures;

38 (6) Instructing and counseling patients regarding mental and physical health using
39 procedures reviewed and approved by a collaborating physician;

40 (7) Assisting the supervising physician in institutional settings, including reviewing
41 of treatment plans, ordering of tests and diagnostic laboratory and radiological services, and
42 ordering of therapies, using procedures reviewed and approved by a licensed physician;

43 (8) Assisting in surgery; and

44 (9) Performing such other tasks not prohibited by law under the collaborative practice
45 arrangement with a licensed physician as the physician assistant has been trained and is
46 proficient to perform.

47 3. Physician assistants shall not perform or prescribe abortions.

48 4. Physician assistants shall not prescribe any drug, medicine, device or therapy
49 unless pursuant to a collaborative practice arrangement in accordance with the law, nor
50 prescribe lenses, prisms or contact lenses for the aid, relief or correction of vision or the
51 measurement of visual power or visual efficiency of the human eye, nor administer or monitor
52 general or regional block anesthesia during diagnostic tests, surgery or obstetric procedures.
53 Prescribing of drugs, medications, devices or therapies by a physician assistant shall be
54 pursuant to a collaborative practice arrangement which is specific to the clinical conditions
55 treated by the supervising physician and the physician assistant shall be subject to the
56 following:

57 (1) A physician assistant shall only prescribe controlled substances in accordance
58 with section 334.747;

59 (2) The types of drugs, medications, devices or therapies prescribed by a physician
60 assistant shall be consistent with the scopes of practice of the physician assistant and the
61 collaborating physician;

62 (3) All prescriptions shall conform with state and federal laws and regulations and
63 shall include the name, address and telephone number of the physician assistant [~~and the~~
64 ~~supervising physician~~];

65 (4) A physician assistant, or advanced practice registered nurse as defined in section
66 335.016 may request, receive and sign for noncontrolled professional samples and may
67 distribute professional samples to patients; and

68 (5) A physician assistant shall not prescribe any drugs, medicines, devices or
69 therapies the collaborating physician is not qualified or authorized to prescribe.

70 5. A physician assistant shall clearly identify himself or herself as a physician
71 assistant and shall not use or permit to be used in the physician assistant's behalf the terms
72 "doctor", "Dr." or "doc" nor hold himself or herself out in any way to be a physician or
73 surgeon. No physician assistant shall practice or attempt to practice without physician
74 collaboration or in any location where the collaborating physician is not immediately
75 available for consultation, assistance and intervention, except as otherwise provided in this
76 section, and in an emergency situation, nor shall any physician assistant bill a patient
77 independently or directly for any services or procedure by the physician assistant; except that,
78 nothing in this subsection shall be construed to prohibit a physician assistant from enrolling
79 with a third-party plan or the department of social services as a MO HealthNet or Medicaid
80 provider while acting under a collaborative practice arrangement between the physician and
81 physician assistant.

82 6. The licensing of physician assistants shall take place within processes established
83 by the state board of registration for the healing arts through rule and regulation. The board
84 of healing arts is authorized to establish rules pursuant to chapter 536 establishing licensing
85 and renewal procedures, collaboration, collaborative practice arrangements, fees, and
86 addressing such other matters as are necessary to protect the public and discipline the
87 profession. An application for licensing may be denied or the license of a physician assistant
88 may be suspended or revoked by the board in the same manner and for violation of the
89 standards as set forth by section 334.100, or such other standards of conduct set by the board
90 by rule or regulation. Persons licensed pursuant to the provisions of chapter 335 shall not be
91 required to be licensed as physician assistants. All applicants for physician assistant licensure
92 who complete a physician assistant training program after January 1, 2008, shall have a
93 master's degree from a physician assistant program.

94 7. At all times the physician is responsible for the oversight of the activities of, and
95 accepts responsibility for, health care services rendered by the physician assistant.

96 8. A physician may enter into collaborative practice arrangements with physician
97 assistants. Collaborative practice arrangements, which shall be in writing, may delegate to a
98 physician assistant the authority to prescribe, administer, or dispense drugs and provide

99 treatment which is within the skill, training, and competence of the physician assistant.
100 Collaborative practice arrangements may delegate to a physician assistant, as defined in
101 section 334.735, the authority to administer, dispense, or prescribe controlled substances
102 listed in Schedules III, IV, and V of section 195.017, and Schedule II - hydrocodone.
103 Schedule III narcotic controlled substances and Schedule II - hydrocodone prescriptions shall
104 be limited to a one hundred twenty-hour supply without refill. Such collaborative practice
105 arrangements shall be in the form of a written arrangement, jointly agreed-upon protocols, or
106 standing orders for the delivery of health care services.

107 9. The written collaborative practice arrangement shall contain at least the following
108 provisions:

109 (1) Complete names, home and business addresses, zip codes, and telephone numbers
110 of the collaborating physician and the physician assistant;

111 (2) A list of all other offices or locations, other than those listed in subdivision (1) of
112 this subsection, where the collaborating physician has authorized the physician assistant to
113 prescribe;

114 (3) A requirement that there shall be posted at every office where the physician
115 assistant is authorized to prescribe, in collaboration with a physician, a prominently displayed
116 disclosure statement informing patients that they may be seen by a physician assistant and
117 have the right to see the collaborating physician;

118 (4) All specialty or board certifications of the collaborating physician and all
119 certifications of the physician assistant;

120 (5) The manner of collaboration between the collaborating physician and the
121 physician assistant, including how the collaborating physician and the physician assistant
122 will:

123 (a) Engage in collaborative practice consistent with each professional's skill, training,
124 education, and competence;

125 (b) Maintain geographic proximity, as determined by the board of registration for the
126 healing arts; and

127 (c) Provide coverage during absence, incapacity, infirmity, or emergency of the
128 collaborating physician;

129 (6) A list of all other written collaborative practice arrangements of the collaborating
130 physician and the physician assistant;

131 (7) The duration of the written practice arrangement between the collaborating
132 physician and the physician assistant;

133 (8) A description of the time and manner of the collaborating physician's review of
134 the physician assistant's delivery of health care services. The description shall include
135 provisions that the physician assistant shall submit a minimum of ten percent of the charts

136 documenting the physician assistant's delivery of health care services to the collaborating
137 physician for review by the collaborating physician, or any other physician designated in the
138 collaborative practice arrangement, every fourteen days. Reviews may be conducted
139 electronically;

140 (9) The collaborating physician, or any other physician designated in the
141 collaborative practice arrangement, shall review every fourteen days a minimum of twenty
142 percent of the charts in which the physician assistant prescribes controlled substances. The
143 charts reviewed under this subdivision may be counted in the number of charts required to be
144 reviewed under subdivision (8) of this subsection; and

145 (10) A statement that no collaboration requirements in addition to the federal law
146 shall be required for a physician-physician assistant team working in a certified community
147 behavioral health clinic as defined by Pub.L. 113-93, or a rural health clinic under the federal
148 Rural Health Services Act, Pub.L. 95-210, as amended, or a federally qualified health center
149 as defined in 42 U.S.C. Section ~~[1395 of the Public Health Service Act]~~ **1395x**, as amended.

150 10. The state board of registration for the healing arts under section 334.125 may
151 promulgate rules regulating the use of collaborative practice arrangements.

152 11. The state board of registration for the healing arts shall not deny, revoke, suspend,
153 or otherwise take disciplinary action against a collaborating physician for health care services
154 delegated to a physician assistant, provided that the provisions of this section and the rules
155 promulgated thereunder are satisfied.

156 12. Within thirty days of any change and on each renewal, the state board of
157 registration for the healing arts shall require every physician to identify whether the physician
158 is engaged in any collaborative practice arrangement, including collaborative practice
159 arrangements delegating the authority to prescribe controlled substances, and also report to
160 the board the name of each physician assistant with whom the physician has entered into such
161 arrangement. The board may make such information available to the public. The board shall
162 track the reported information and may routinely conduct random reviews of such
163 arrangements to ensure that the arrangements are carried out in compliance with this chapter.

164 13. The collaborating physician shall determine and document the completion of a
165 period of time during which the physician assistant shall practice with the collaborating
166 physician continuously present before practicing in a setting where the collaborating
167 physician is not continuously present. This limitation shall not apply to collaborative
168 arrangements of providers of population-based public health services as defined by 20 CSR
169 2150-5.100 as of April 30, 2009.

170 14. No contract or other arrangement shall require a physician to act as a
171 collaborating physician for a physician assistant against the physician's will. A physician
172 shall have the right to refuse to act as a supervising physician, without penalty, for a particular

173 physician assistant. No contract or other agreement shall limit the collaborating physician's
174 ultimate authority over any protocols or standing orders or in the delegation of the physician's
175 authority to any physician assistant. No contract or other arrangement shall require any
176 physician assistant to collaborate with any physician against the physician assistant's will. A
177 physician assistant shall have the right to refuse to collaborate, without penalty, with a
178 particular physician.

179 15. Physician assistants shall file with the board a copy of their collaborating
180 physician form.

181 16. No physician shall be designated to serve as a collaborating physician for more
182 than six full-time equivalent licensed physician assistants, full-time equivalent advanced
183 practice registered nurses, or full-time equivalent assistant physicians, or any combination
184 thereof. This limitation shall not apply to physician assistant collaborative practice
185 arrangements of hospital employees providing inpatient care service in hospitals as defined in
186 chapter 197, or to a certified registered nurse anesthetist providing anesthesia services under
187 the supervision of an anesthesiologist or other physician, dentist, or podiatrist who is
188 immediately available if needed as set out in subsection 7 of section 334.104.

189 17. No arrangement made under this section shall supercede current hospital licensing
190 regulations governing hospital medication orders under protocols or standing orders for the
191 purpose of delivering inpatient or emergency care within a hospital, as defined in section
192 197.020, if such protocols or standing orders have been approved by the hospital's medical
193 staff and pharmaceutical therapeutics committee.

✓