

FIRST REGULAR SESSION

# HOUSE BILL NO. 609

103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE THOMPSON.

1674H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 195.010, 195.030, 195.070, 334.031, 334.035, and 338.165, RSMo, and to enact in lieu thereof six new sections relating to health care providers.

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

Section A. Sections 195.010, 195.030, 195.070, 334.031, 334.035, and 338.165, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 195.010, 195.030, 195.070, 334.031, 334.035, and 338.165, to read as follows:

195.010. The following words and phrases as used in this chapter and chapter 579, unless the context otherwise requires, mean:

(1) "Acute pain", pain, whether resulting from disease, accidental or intentional trauma, or other causes, that the practitioner reasonably expects to last only a short period of time. Acute pain shall not include chronic pain, pain being treated as part of cancer care, hospice or other end-of-life care, or medication-assisted treatment for substance use disorders;

(2) "Addict", a person who habitually uses one or more controlled substances to such an extent as to create a tolerance for such drugs, and who does not have a medical need for such drugs, or who is so far addicted to the use of such drugs as to have lost the power of self-control with reference to his or her addiction;

(3) "Administer", to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(a) A practitioner (or, in his or her presence, by his or her authorized agent); or

(b) The patient or research subject at the direction and in the presence of the practitioner;

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 (4) "Agent", an authorized person who acts on behalf of or at the direction of a  
18 manufacturer, distributor, or dispenser. The term does not include a common or contract  
19 carrier, public warehouseman, or employee of the carrier or warehouseman while acting in the  
20 usual and lawful course of the carrier's or warehouseman's business;

21 (5) "Attorney for the state", any prosecuting attorney, circuit attorney, or attorney  
22 general authorized to investigate, commence and prosecute an action under this chapter;

23 (6) "Controlled substance", a drug, substance, or immediate precursor in Schedules I  
24 through V listed in this chapter;

25 (7) "Controlled substance analogue", a substance the chemical structure of which is  
26 substantially similar to the chemical structure of a controlled substance in Schedule I or II  
27 and:

28 (a) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous  
29 system substantially similar to the stimulant, depressant, or hallucinogenic effect on the  
30 central nervous system of a controlled substance included in Schedule I or II; or

31 (b) With respect to a particular individual, which that individual represents or intends  
32 to have a stimulant, depressant, or hallucinogenic effect on the central nervous system  
33 substantially similar to the stimulant, depressant, or hallucinogenic effect on the central  
34 nervous system of a controlled substance included in Schedule I or II. The term does not  
35 include a controlled substance; any substance for which there is an approved new drug  
36 application; any substance for which an exemption is in effect for investigational use, for a  
37 particular person, under Section 505 of the federal Food, Drug and Cosmetic Act (21 U.S.C.  
38 Section 355) to the extent conduct with respect to the substance is pursuant to the exemption;  
39 or any substance to the extent not intended for human consumption before such an exemption  
40 takes effect with respect to the substance;

41 (8) "Counterfeit substance", a controlled substance which, or the container or labeling  
42 of which, without authorization, bears the trademark, trade name, or other identifying mark,  
43 imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser  
44 other than the person who in fact manufactured, distributed, or dispensed the substance;

45 (9) "Deliver" or "delivery", the actual, constructive, or attempted transfer from one  
46 person to another of drug paraphernalia or of a controlled substance, or an imitation  
47 controlled substance, whether or not there is an agency relationship, and includes a sale;

48 (10) "Dentist", a person authorized by law to practice dentistry in this state;

49 (11) "Depressant or stimulant substance":

50 (a) A drug containing any quantity of barbituric acid or any of the salts of barbituric  
51 acid or any derivative of barbituric acid which has been designated by the United States  
52 Secretary of Health and Human Services as habit forming under 21 U.S.C. Section 352(d);

53 (b) A drug containing any quantity of:

- 54 a. Amphetamine or any of its isomers;
- 55 b. Any salt of amphetamine or any salt of an isomer of amphetamine; or
- 56 c. Any substance the United States Attorney General, after investigation, has found to
- 57 be, and by regulation designated as, habit forming because of its stimulant effect on the
- 58 central nervous system;
- 59 (c) Lysergic acid diethylamide; or
- 60 (d) Any drug containing any quantity of a substance that the United States Attorney
- 61 General, after investigation, has found to have, and by regulation designated as having, a
- 62 potential for abuse because of its depressant or stimulant effect on the central nervous system
- 63 or its hallucinogenic effect;
- 64 (12) "Dispense", to deliver a narcotic or controlled dangerous drug to an ultimate user
- 65 or research subject by or pursuant to the lawful order of a practitioner including the
- 66 prescribing, administering, packaging, labeling, or compounding necessary to prepare the
- 67 substance for such delivery. "Dispenser" means a practitioner who dispenses;
- 68 (13) "Distribute", to deliver other than by administering or dispensing a controlled
- 69 substance;
- 70 (14) "Distributor", a person who distributes;
- 71 (15) "Drug":
- 72 (a) Substances recognized as drugs in the official United States Pharmacopoeia,
- 73 Official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or
- 74 any supplement to any of them;
- 75 (b) Substances intended for use in the diagnosis, cure, mitigation, treatment or
- 76 prevention of disease in humans or animals;
- 77 (c) Substances, other than food, intended to affect the structure or any function of the
- 78 body of humans or animals; and
- 79 (d) Substances intended for use as a component of any article specified in this
- 80 subdivision. It does not include devices or their components, parts or accessories;
- 81 (16) "Drug-dependent person", a person who is using a controlled substance and who
- 82 is in a state of psychic or physical dependence, or both, arising from the use of such substance
- 83 on a continuous basis. Drug dependence is characterized by behavioral and other responses
- 84 which include a strong compulsion to take the substance on a continuous basis in order to
- 85 experience its psychic effects or to avoid the discomfort caused by its absence;
- 86 (17) "Drug enforcement agency", the Drug Enforcement Administration in the United
- 87 States Department of Justice, or its successor agency;
- 88 (18) "Drug paraphernalia", all equipment, products, substances and materials of any
- 89 kind which are used, intended for use, or designed for use, in planting, propagating,
- 90 cultivating, growing, harvesting, manufacturing, compounding, converting, producing,

91 processing, preparing, storing, containing, concealing, injecting, ingesting, inhaling, or  
92 otherwise introducing into the human body a controlled substance or an imitation controlled  
93 substance in violation of this chapter or chapter 579. It includes, but is not limited to:

94 (a) Kits used, intended for use, or designed for use in planting, propagating,  
95 cultivating, growing or harvesting of any species of plant which is a controlled substance or  
96 from which a controlled substance can be derived;

97 (b) Kits used, intended for use, or designed for use in manufacturing, compounding,  
98 converting, producing, processing, or preparing controlled substances or imitation controlled  
99 substances;

100 (c) Isomerization devices used, intended for use, or designed for use in increasing the  
101 potency of any species of plant which is a controlled substance or an imitation controlled  
102 substance;

103 (d) Testing equipment used, intended for use, or designed for use in identifying, or in  
104 analyzing the strength, effectiveness or purity of controlled substances or imitation controlled  
105 substances;

106 (e) Scales and balances used, intended for use, or designed for use in weighing or  
107 measuring controlled substances or imitation controlled substances;

108 (f) Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite,  
109 dextrose and lactose, used, intended for use, or designed for use in cutting controlled  
110 substances or imitation controlled substances;

111 (g) Separation gins and sifters used, intended for use, or designed for use in removing  
112 twigs and seeds from, or in otherwise cleaning or refining, marijuana;

113 (h) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or  
114 designed for use in compounding controlled substances or imitation controlled substances;

115 (i) Capsules, balloons, envelopes and other containers used, intended for use, or  
116 designed for use in packaging small quantities of controlled substances or imitation controlled  
117 substances;

118 (j) Containers and other objects used, intended for use, or designed for use in storing  
119 or concealing controlled substances or imitation controlled substances;

120 (k) Hypodermic syringes, needles and other objects used, intended for use, or  
121 designed for use in parenterally injecting controlled substances or imitation controlled  
122 substances into the human body;

123 (l) Objects used, intended for use, or designed for use in ingesting, inhaling, or  
124 otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such  
125 as:

126 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without  
127 screens, permanent screens, hashish heads, or punctured metal bowls;

- 128           b. Water pipes;  
129           c. Carburetion tubes and devices;  
130           d. Smoking and carburetion masks;  
131           e. Roach clips meaning objects used to hold burning material, such as a marijuana  
132 cigarette, that has become too small or too short to be held in the hand;  
133           f. Miniature cocaine spoons and cocaine vials;  
134           g. Chamber pipes;  
135           h. Carburetor pipes;  
136           i. Electric pipes;  
137           j. Air-driven pipes;  
138           k. Chillums;  
139           l. Bonges;  
140           m. Ice pipes or chillers;  
141           (m) Substances used, intended for use, or designed for use in the manufacture of a  
142 controlled substance.

143

144 In determining whether an object, product, substance or material is drug paraphernalia, a  
145 court or other authority should consider, in addition to all other logically relevant factors, the  
146 following:

- 147           a. Statements by an owner or by anyone in control of the object concerning its use;  
148           b. Prior convictions, if any, of an owner, or of anyone in control of the object, under  
149 any state or federal law relating to any controlled substance or imitation controlled substance;  
150           c. The proximity of the object, in time and space, to a direct violation of this chapter  
151 or chapter 579;  
152           d. The proximity of the object to controlled substances or imitation controlled  
153 substances;  
154           e. The existence of any residue of controlled substances or imitation controlled  
155 substances on the object;  
156           f. Direct or circumstantial evidence of the intent of an owner, or of anyone in control  
157 of the object, to deliver it to persons who he or she knows, or should reasonably know, intend  
158 to use the object to facilitate a violation of this chapter or chapter 579; the innocence of an  
159 owner, or of anyone in control of the object, as to direct violation of this chapter or chapter  
160 579 shall not prevent a finding that the object is intended for use, or designed for use as drug  
161 paraphernalia;  
162           g. Instructions, oral or written, provided with the object concerning its use;  
163           h. Descriptive materials accompanying the object which explain or depict its use;  
164           i. National or local advertising concerning its use;

- 165 j. The manner in which the object is displayed for sale;
- 166 k. Whether the owner, or anyone in control of the object, is a legitimate supplier of  
167 like or related items to the community, such as a licensed distributor or dealer of tobacco  
168 products;
- 169 l. Direct or circumstantial evidence of the ratio of sales of the object to the total sales  
170 of the business enterprise;
- 171 m. The existence and scope of legitimate uses for the object in the community;
- 172 n. Expert testimony concerning its use;
- 173 o. The quantity, form or packaging of the product, substance or material in relation to  
174 the quantity, form or packaging associated with any legitimate use for the product, substance  
175 or material;
- 176 (19) "Federal narcotic laws", the laws of the United States relating to controlled  
177 substances;
- 178 (20) "Hospital", a place devoted primarily to the maintenance and operation of  
179 facilities for the diagnosis, treatment or care, for not less than twenty-four hours in any week,  
180 of three or more nonrelated individuals suffering from illness, disease, injury, deformity or  
181 other abnormal physical conditions; or a place devoted primarily to provide, for not less than  
182 twenty-four consecutive hours in any week, medical or nursing care for three or more  
183 nonrelated individuals. The term hospital does not include convalescent, nursing, shelter or  
184 boarding homes as defined in chapter 198, **but shall include outpatient facilities owned and**  
185 **operated by a hospital**;
- 186 (21) "Illegal industrial hemp":
- 187 (a) All nonseed parts and varieties of the *Cannabis sativa L.* plant, growing or not,  
188 that contain an average delta-9 tetrahydrocannabinol (THC) concentration exceeding three-  
189 tenths of one percent on a dry weight basis;
- 190 (b) Illegal industrial hemp shall be destroyed in the most effective manner possible,  
191 and such destruction shall be verified by the Missouri state highway patrol;
- 192 (22) "Immediate precursor", a substance which:
- 193 (a) The state department of health and senior services has found to be and by rule  
194 designates as being the principal compound commonly used or produced primarily for use in  
195 the manufacture of a controlled substance;
- 196 (b) Is an immediate chemical intermediary used or likely to be used in the  
197 manufacture of a controlled substance; and
- 198 (c) The control of which is necessary to prevent, curtail or limit the manufacture of  
199 the controlled substance;
- 200 (23) "Imitation controlled substance", a substance that is not a controlled substance,  
201 which by dosage unit appearance (including color, shape, size and markings), or by

202 representations made, would lead a reasonable person to believe that the substance is a  
203 controlled substance. In determining whether the substance is an imitation controlled  
204 substance the court or authority concerned should consider, in addition to all other logically  
205 relevant factors, the following:

206 (a) Whether the substance was approved by the federal Food and Drug  
207 Administration for over-the-counter (nonprescription or nonlegend) sales and was sold in  
208 the federal Food and Drug Administration-approved package, with the federal Food and Drug  
209 Administration-approved labeling information;

210 (b) Statements made by an owner or by anyone else in control of the substance  
211 concerning the nature of the substance, or its use or effect;

212 (c) Whether the substance is packaged in a manner normally used for illicit controlled  
213 substances;

214 (d) Prior convictions, if any, of an owner, or anyone in control of the object, under  
215 state or federal law related to controlled substances or fraud;

216 (e) The proximity of the substances to controlled substances;

217 (f) Whether the consideration tendered in exchange for the noncontrolled substance  
218 substantially exceeds the reasonable value of the substance considering the actual chemical  
219 composition of the substance and, where applicable, the price at which over-the-counter  
220 substances of like chemical composition sell. An imitation controlled substance does not  
221 include a placebo or registered investigational drug either of which was manufactured,  
222 distributed, possessed or delivered in the ordinary course of professional practice or research;

223 (24) "Industrial hemp":

224 (a) All nonseed parts and varieties of the *Cannabis sativa L.* plant, growing or not,  
225 that contain an average delta-9 tetrahydrocannabinol (THC) concentration that does not  
226 exceed three-tenths of one percent on a dry weight basis or the maximum concentration  
227 allowed under federal law, whichever is greater;

228 (b) Any *Cannabis sativa L.* seed that is part of a growing crop, retained by a grower  
229 for future planting, or used for processing into or use as agricultural hemp seed;

230 (c) Industrial hemp includes industrial hemp commodities and products and topical or  
231 ingestible animal and consumer products derived from industrial hemp with a delta-9  
232 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry  
233 weight basis;

234 (25) "Initial prescription", a prescription issued to a patient who has never previously  
235 been issued a prescription for the drug or its pharmaceutical equivalent or who was previously  
236 issued a prescription for the drug or its pharmaceutical equivalent, but the date on which the  
237 current prescription is being issued is more than five months after the date the patient last  
238 used or was administered the drug or its equivalent;

239 (26) "Laboratory", a laboratory approved by the department of health and senior  
240 services as proper to be entrusted with the custody of controlled substances but does not  
241 include a pharmacist who compounds controlled substances to be sold or dispensed on  
242 prescriptions;

243 (27) "Manufacture", the production, preparation, propagation, compounding or  
244 processing of drug paraphernalia or of a controlled substance, or an imitation controlled  
245 substance, either directly or by extraction from substances of natural origin, or independently  
246 by means of chemical synthesis, or by a combination of extraction and chemical synthesis,  
247 and includes any packaging or repackaging of the substance or labeling or relabeling of its  
248 container. This term does not include the preparation or compounding of a controlled  
249 substance or an imitation controlled substance or the preparation, compounding, packaging or  
250 labeling of a narcotic or dangerous drug:

251 (a) By a practitioner as an incident to his or her administering or dispensing of a  
252 controlled substance or an imitation controlled substance in the course of his or her  
253 professional practice; or

254 (b) By a practitioner or his or her authorized agent under his or her supervision, for  
255 the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale;

256 (28) "Marijuana", all parts of the plant genus *Cannabis* in any species or form thereof,  
257 including, but not limited to *Cannabis Sativa L.*, except industrial hemp, *Cannabis Indica*,  
258 *Cannabis Americana*, *Cannabis Ruderalis*, and *Cannabis Gigantea*, whether growing or not,  
259 the seeds thereof, the resin extracted from any part of the plant; and every compound,  
260 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does  
261 not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made  
262 from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or  
263 preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or  
264 the sterilized seed of the plant which is incapable of germination;

265 (29) "Methamphetamine precursor drug", any drug containing ephedrine,  
266 pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of  
267 optical isomers;

268 (30) "Narcotic drug", any of the following, whether produced directly or indirectly by  
269 extraction from substances of vegetable origin, or independently by means of chemical  
270 synthesis, or by a combination of extraction and chemical analysis:

271 (a) Opium, opiate, and any derivative, of opium or opiate, including their isomers,  
272 esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the  
273 isomers, esters, ethers, and salts is possible within the specific chemical designation. The  
274 term does not include the isoquinoline alkaloids of opium;



275 (b) Coca leaves, but not including extracts of coca leaves from which cocaine,  
276 ecgonine, and derivatives of ecgonine or their salts have been removed;

277 (c) Cocaine or any salt, isomer, or salt of isomer thereof;

278 (d) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof;

279 (e) Any compound, mixture, or preparation containing any quantity of any substance  
280 referred to in paragraphs (a) to (d) of this subdivision;

281 (31) "Official written order", an order written on a form provided for that purpose by  
282 the United States Commissioner of Narcotics, under any laws of the United States making  
283 provision therefor, if such order forms are authorized and required by federal law, and if no  
284 such order form is provided, then on an official form provided for that purpose by the  
285 department of health and senior services;

286 (32) "Opiate" or "opioid", any substance having an addiction-forming or addiction-  
287 sustaining liability similar to morphine or being capable of conversion into a drug having  
288 addiction-forming or addiction-sustaining liability. The term includes its racemic and  
289 levorotatory forms. It does not include, unless specifically controlled under section 195.017,  
290 the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its salts  
291 (dextromethorphan);

292 (33) "Opium poppy", the plant of the species *Papaver somniferum L.*, except its  
293 seeds;

294 (34) "Over-the-counter sale", a retail sale licensed pursuant to chapter 144 of a drug  
295 other than a controlled substance;

296 (35) "Person", an individual, corporation, government or governmental subdivision or  
297 agency, business trust, estate, trust, partnership, joint venture, association, or any other legal  
298 or commercial entity;

299 (36) "Pharmacist", a licensed pharmacist as defined by the laws of this state, and  
300 where the context so requires, the owner of a store or other place of business where controlled  
301 substances are compounded or dispensed by a licensed pharmacist; but nothing in this chapter  
302 shall be construed as conferring on a person who is not registered nor licensed as a pharmacist  
303 any authority, right or privilege that is not granted to him by the pharmacy laws of this state;

304 (37) "Poppy straw", all parts, except the seeds, of the opium poppy, after mowing;

305 (38) "Possessed" or "possessing a controlled substance", a person, with the  
306 knowledge of the presence and nature of a substance, has actual or constructive possession of  
307 the substance. A person has actual possession if he has the substance on his or her person or  
308 within easy reach and convenient control. A person who, although not in actual possession,  
309 has the power and the intention at a given time to exercise dominion or control over the  
310 substance either directly or through another person or persons is in constructive possession of  
311 it. Possession may also be sole or joint. If one person alone has possession of a substance

312 possession is sole. If two or more persons share possession of a substance, possession is  
313 joint;

314 (39) "Practitioner", a physician, dentist, optometrist, podiatrist, veterinarian, scientific  
315 investigator, pharmacy, hospital or other person licensed, registered or otherwise permitted by  
316 this state to distribute, dispense, conduct research with respect to or administer or to use in  
317 teaching or chemical analysis, a controlled substance in the course of professional practice or  
318 research in this state, or a pharmacy, hospital or other institution licensed, registered, or  
319 otherwise permitted to distribute, dispense, conduct research with respect to or administer a  
320 controlled substance in the course of professional practice or research;

321 (40) "Production", includes the manufacture, planting, cultivation, growing, or  
322 harvesting of drug paraphernalia or of a controlled substance or an imitation controlled  
323 substance;

324 (41) "Registry number", the number assigned to each person registered under the  
325 federal controlled substances laws;

326 (42) "Sale", includes barter, exchange, or gift, or offer therefor, and each such  
327 transaction made by any person, whether as principal, proprietor, agent, servant or employee;

328 (43) "State" when applied to a part of the United States, includes any state, district,  
329 commonwealth, territory, insular possession thereof, and any area subject to the legal  
330 authority of the United States of America;

331 (44) "Synthetic cannabinoid", includes unless specifically excepted or unless listed in  
332 another schedule, any natural or synthetic material, compound, mixture, or preparation that  
333 contains any quantity of a substance that is a cannabinoid receptor agonist, including but not  
334 limited to any substance listed in paragraph (ll) of subdivision (4) of subsection 2 of section  
335 195.017 and any analogues; homologues; isomers, whether optical, positional, or geometric;  
336 esters; ethers; salts; and salts of isomers, esters, and ethers, whenever the existence of the  
337 isomers, esters, ethers, or salts is possible within the specific chemical designation, however,  
338 it shall not include any approved pharmaceutical authorized by the United States Food and  
339 Drug Administration;

340 (45) "Ultimate user", a person who lawfully possesses a controlled substance or an  
341 imitation controlled substance for his or her own use or for the use of a member of his or her  
342 household or immediate family, regardless of whether they live in the same household, or for  
343 administering to an animal owned by him or by a member of his or her household. For  
344 purposes of this section, the phrase "immediate family" means a husband, wife, parent, child,  
345 sibling, stepparent, stepchild, stepbrother, stepsister, grandparent, or grandchild;

346 (46) "Wholesaler", a person who supplies drug paraphernalia or controlled substances  
347 or imitation controlled substances that he himself has not produced or prepared, on official  
348 written orders, but not on prescriptions.

195.030. 1. The department of health and senior services upon public notice and hearing pursuant to this section and chapter 536 may promulgate rules and charge reasonable fees relating to the registration and control of the manufacture, distribution and dispensing of controlled substances within this state. No rule or portion of a rule promulgated pursuant to the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

2. No person shall manufacture, compound, mix, cultivate, grow, or by any other process produce or prepare, distribute, dispense or prescribe any controlled substance and no person as a wholesaler shall supply the same, without having first obtained a registration issued by the department of health and senior services in accordance with rules and regulations promulgated by it. No registration shall be granted for a term exceeding three years.

3. Persons registered by the department of health and senior services pursuant to this chapter to manufacture, distribute, or dispense or conduct research with controlled substances are authorized to possess, manufacture, distribute or dispense such substances, including any such activity in the conduct of research, to the extent authorized by their registration and in conformity with other provisions of this chapter and chapter 579.

4. The following persons shall not be required to register and may lawfully possess controlled substances pursuant to this chapter and chapter 579:

(1) An agent or employee, excluding physicians, dentists, optometrists, podiatrists or veterinarians, of any registered manufacturer, distributor, or dispenser of any controlled substance if such agent is acting in the usual course of his or her business or employment;

(2) A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

(3) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a Schedule V substance.

5. The department of health and senior services may, by regulation, waive the requirement for registration of certain manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety.

6. A separate registration shall be required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances. **A hospital may obtain a separate registration for each outpatient facility owned or operated by the hospital in which behavioral health or substance abuse services are delivered. Such outpatient facility may distribute or dispense drugs to the extent allowed under a hospital registration.**

7. The department of health and senior services is authorized to inspect the establishment of a registrant or applicant in accordance with the provisions of this chapter.

195.070. 1. A physician, podiatrist, dentist, a registered optometrist certified to administer pharmaceutical agents as provided in section 336.220, or an assistant physician in accordance with section 334.037 or a physician assistant in accordance with section 334.747 in good faith and in the course of his or her professional practice only, may prescribe, administer, and dispense controlled substances or he or she may cause the same to be administered or dispensed by an individual as authorized by statute.

2. An advanced practice registered nurse, as defined in section 335.016, but not a certified registered nurse anesthetist as defined in subdivision (8) of section 335.016, who holds a certificate of controlled substance prescriptive authority from the board of nursing under section 335.019 and who is delegated the authority to prescribe controlled substances under a collaborative practice arrangement under section 334.104 may prescribe any controlled substances listed in Schedules III, IV, and V of section 195.017, and may have restricted authority in Schedule II. Prescriptions for Schedule II medications prescribed by an advanced practice registered nurse who has a certificate of controlled substance prescriptive authority are restricted to only those medications containing hydrocodone and Schedule II controlled substances for hospice patients pursuant to the provisions of section 334.104. However, no such certified advanced practice registered nurse shall prescribe controlled substance for his or her own self or family. Schedule III narcotic controlled substance and Schedule II - hydrocodone prescriptions shall be limited to a one hundred twenty-hour supply without refill.

3. A veterinarian, in good faith and in the course of the veterinarian's professional practice only, and not for use by a human being, may prescribe, administer, and dispense controlled substances and the veterinarian may cause them to be administered by an assistant or orderly under his or her direction and supervision.

4. A practitioner shall not accept any portion of a controlled substance unused by a patient, for any reason, if such practitioner did not originally dispense the drug, except:

(1) When the controlled substance is delivered to the practitioner to administer to the patient for whom the medication is prescribed ~~[as authorized by federal law]~~. Practitioners shall maintain records and secure the medication as required by this chapter and regulations promulgated pursuant to this chapter; or

(2) As provided in section 195.265.

5. An individual practitioner shall not prescribe or dispense a controlled substance for such practitioner's personal use except in a medical emergency.

334.031. 1. Candidates for licenses as physicians and surgeons shall furnish ~~[satisfactory evidence of their good moral character, and their preliminary qualifications, to wit: a certificate of graduation from an accredited high school or its equivalent, and satisfactory evidence of completion of preprofessional education consisting of a minimum of~~

5 ~~sixty semester hours of college credits in acceptable subjects leading towards the degree of~~  
6 ~~bachelor of arts or bachelor of science from an accredited college or university. They shall~~  
7 ~~also furnish satisfactory evidence of having attended throughout at least four terms of thirty-~~  
8 ~~two weeks of actual instructions in each term and of having received a diploma from some~~  
9 ~~reputable medical college or osteopathic college that enforces requirements of four terms of~~  
10 ~~thirty two weeks for actual instruction in each term, including, in addition to class work, such~~  
11 ~~experience in operative and hospital work during the last two years of instruction as is~~  
12 ~~required by the American Medical Association and the American Osteopathic Association~~  
13 ~~before the college is approved and accredited as reputable. Any medical college approved~~  
14 ~~and accredited as reputable by the American Medical Association or the Liaison Committee~~  
15 ~~on Medical Education and any osteopathic college approved and accredited as reputable by~~  
16 ~~the American Osteopathic Association is deemed to have complied with the requirements of~~  
17 ~~this subsection]:~~

18 **(1) Evidence of good moral character by submitting to a criminal background**  
19 **check as provided in section 43.540;**

20 **(2) A diploma and academic transcripts from a school accredited by the Liaison**  
21 **Committee on Medical Education, the Commission on Osteopathic College**  
22 **Accreditation, the Educational Commission for Foreign Medical Graduates**  
23 **(ECFMG), or a similar accrediting agency; and**

24 **(3) A certificate demonstrating that the applicant has successfully completed a**  
25 **postgraduate internship or resident training in a hospital approved for such training by**  
26 **the board. An applicant who holds a valid certificate issued by the ECFMG shall**  
27 **submit satisfactory evidence of successful completion of two years of such training.**

28

29 **Except as provided in subsection 3 of this section, the board shall not require applicants**  
30 **to provide information in addition to what the applicant is required to furnish by this**  
31 **subsection.**

32 2. In determining the qualifications necessary for licensure as a qualified physician  
33 and surgeon, the board, by rule and regulation, may accept the certificate of the National  
34 Board of Medical Examiners of the United States, chartered pursuant to the laws of the  
35 District of Columbia, of the National Board of Examiners for Osteopathic Physicians and  
36 Surgeons chartered pursuant to the laws of the state of Indiana, or of the Licentiate of the  
37 Medical Council of Canada (LMCC) in lieu of and as equivalent to its own professional  
38 examination. Every applicant for a license on the basis of such certificate, upon making  
39 application showing necessary qualifications as provided in subsection 1 of this section, shall  
40 be required to pay the same fee required of applicants to take the examination before the  
41 board.

42           **3. The board may require applicants to list all licenses to practice as a physician**  
43 **currently or previously held in any other state, territory, or country and to disclose any**  
44 **past or pending investigations, discipline, or sanctions against each such license.**  
45 **Applicants shall not be required to submit verification of such licensure or any**  
46 **investigations, discipline, or sanctions, except the board may require applicants to**  
47 **provide any authorization necessary for the board to independently verify the existence**  
48 **or status of an applicant's licensure to practice as a physician in any other state,**  
49 **territory, or country.**

50           **4. In addition to the criminal background screening required by this section, the**  
51 **board may obtain a report on the applicant from the National Practitioner Data Bank.**

52           **5. Notwithstanding any other provision of law to the contrary, if the board does**  
53 **not approve or deny an application submitted by a candidate for licensure as a**  
54 **physician and surgeon within forty-five days from the date the board receives the**  
55 **application, the application shall be deemed approved, and the candidate shall be**  
56 **considered licensed as a physician and surgeon in good standing with the board as of the**  
57 **date of the deemed approval.**

334.035. 1. For purposes of this section, the following terms mean:

2           **(1) "ACGME", the Accreditation Council for Graduate Medical Education;**

3           **(2) "Applicant", an applicant for a permanent license as a physician and**  
4 **surgeon;**

5           **(3) "Hospital", the same meaning given to the term in section 197.020.**

6           **2. Except as otherwise provided in section 334.036, every applicant [~~for a permanent~~**  
7 **license as a physician and surgeon] shall provide the board with satisfactory evidence of**  
8 **having successfully completed such postgraduate training in hospitals or medical or**  
9 **osteopathic colleges as the board may prescribe by rule.**

10           **3. Any applicant who has completed unaccredited postgraduate training in a**  
11 **medical subspecialty for which no program accredited by ACGME exists shall be**  
12 **deemed to have satisfactorily completed the training requirements of 20 CSR 2150-2.004**  
13 **(2) or any successor regulation if such unaccredited postgraduate training occurred in a**  
14 **teaching hospital accredited by ACGME.**

15           **4. The board shall waive the training requirements of 20 CSR 2150-2.004(2) or**  
16 **any successor regulation for any applicant who is licensed as a physician in good**  
17 **standing in another state and has been in good standing more than three years.**

338.165. 1. As used in this section, the following terms mean:

2           **(1) "Board", the Missouri board of pharmacy;**

3           **(2) "Hospital", a hospital as defined in section 197.020;**

4 (3) "Hospital clinic or facility", a clinic or facility under the common control,  
5 management, or ownership of the same hospital or hospital system;

6 (4) "Medical staff committee", the committee or other body of a hospital or hospital  
7 system responsible for formulating policies regarding pharmacy services and medication  
8 management;

9 (5) "Medication order", an order for a legend drug or device that is:

10 (a) Authorized or issued by an authorized prescriber acting within the scope of his or  
11 her professional practice or pursuant to a protocol or standing order approved by the medical  
12 staff committee; and

13 (b) To be distributed or administered to the patient by a health care practitioner or  
14 lawfully authorized designee at a hospital or a hospital clinic or facility;

15 (6) "Patient", an individual receiving medical diagnosis, treatment or care at a  
16 hospital or a hospital clinic or facility.

17 2. The department of health and senior services shall have sole authority and  
18 responsibility for the inspection and licensure of hospitals as provided by chapter 197  
19 including, but not limited to all parts, services, functions, support functions and activities  
20 which contribute directly or indirectly to patient care of any kind whatsoever. However, the  
21 board may inspect a class B pharmacy or any portion thereof that is not under the inspection  
22 authority vested in the department of health and senior services by chapter 197 to determine  
23 compliance with this chapter or the rules of the board. This section shall not be construed to  
24 bar the board from conducting an investigation pursuant to a public or governmental  
25 complaint to determine compliance by an individual licensee or registrant of the board with  
26 any applicable provisions of this chapter or the rules of the board.

27 3. The department of health and senior services shall have **the sole** authority to  
28 promulgate rules **governing pharmacy services in hospitals, but may promulgate rules** in  
29 conjunction with the board governing medication distribution and the provision of medication  
30 therapy services, **as described in section 338.010**, by a pharmacist at or within a hospital.  
31 ~~[Rules may include, but are not limited to, medication management, preparation,~~  
32 ~~compounding, administration, storage, distribution, packaging and labeling. Until such~~  
33 ~~rules are jointly promulgated, hospitals shall comply with all applicable state law and~~  
34 ~~department of health and senior services rules governing pharmacy services and medication~~  
35 ~~management in hospitals.] **The board shall have the sole authority to promulgate rules**~~  
36 **governing inspection and licensure of class B pharmacies.** The rulemaking authority  
37 granted herein to the department of health and senior services shall not include the dispensing  
38 of medication by prescription.

39 4. All pharmacists providing medication therapy services shall obtain a certificate of  
40 medication therapeutic plan authority as provided by rule of the board. Medication therapy

41 services may be provided by a pharmacist for patients of a hospital pursuant to a protocol  
42 with a physician as required by section 338.010 or pursuant to a protocol approved by the  
43 medical staff committee. However, the medical staff protocol shall include a process  
44 whereby an exemption to the protocol for a patient may be granted for clinical efficacy should  
45 the patient's physician make such request. The medical staff protocol shall also include an  
46 appeals process to request a change in a specific protocol based on medical evidence  
47 presented by a physician on staff.

48 5. Medication may be dispensed by a class B hospital pharmacy pursuant to a  
49 prescription or a medication order.

50 6. A drug distributor license shall not be required to transfer medication from a class  
51 B hospital pharmacy to a hospital clinic or facility for patient care or treatment.

52 7. Medication dispensed by a class A pharmacy located in a hospital to a hospital  
53 patient for use or administration outside of the hospital under a medical staff-approved  
54 protocol for medication therapy shall be dispensed only by a prescription order for medication  
55 therapy from an individual physician for a specific patient.

56 8. Medication dispensed by a hospital to a hospital patient for use or administration  
57 outside of the hospital shall be labeled as provided by rules jointly promulgated by the  
58 department of health and senior services and the board including medication distributed for  
59 administration by or under the supervision of a health care practitioner at a hospital clinic or  
60 facility.

61 9. This section shall not be construed to preempt any law or rule governing controlled  
62 substances.

63 10. Any rule, as that term is defined in section 536.010, that is created under the  
64 authority delegated in this section shall only become effective if it complies with and is  
65 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section  
66 and chapter 536 are nonseverable and if any of the powers vested with the general assembly  
67 under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are  
68 subsequently held unconstitutional, then the grant of rulemaking authority and any rule  
69 proposed or adopted after August 28, 2014, shall be invalid and void.

70 11. The board shall appoint an advisory committee to review and make  
71 recommendations to the board on the merit of all rules and regulations to be jointly  
72 promulgated by the board and the department of health and senior services pursuant to the  
73 joint rulemaking authority granted by this section. The advisory committee shall consist of:

74 (1) Two representatives designated by the Missouri Hospital Association, one of  
75 whom shall be a pharmacist;

76 (2) One pharmacist designated by the Missouri Society of Health System  
77 Pharmacists;



78 (3) One pharmacist designated by the Missouri Pharmacy Association;

79 (4) One pharmacist designated by the department of health and senior services from a  
80 hospital with a licensed bed count that does not exceed fifty beds or from a critical access  
81 hospital as defined by the department of social services for purposes of MO HealthNet  
82 reimbursement;

83 (5) One pharmacist designated by the department of health and senior services from a  
84 hospital with a licensed bed count that exceeds two hundred beds; and

85 (6) One pharmacist designated by the board with experience in the provision of  
86 hospital pharmacy services.

87 12. Nothing in this section shall be construed to limit the authority of a licensed  
88 health care provider to prescribe, administer, or dispense medications and treatments within  
89 the scope of their professional practice.

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