

FIRST REGULAR SESSION

HOUSE BILL NO. 729

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES WASSON (Sponsor), TILLEY,
RICHARD AND SATER (Co-sponsors).

Read 1st time March 8, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1802L.011

AN ACT

To repeal sections 338.010 and 338.095, RSMo, and to enact in lieu thereof two new sections relating to the practice of pharmacy.

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

Section A. Section 338.010 and 338.095, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 338.010 and 338.095, to read as follows:

338.010. 1. The "practice of pharmacy" [shall mean] **means** the interpretation,
2 **implementation**, and evaluation of **medical or veterinary** prescription orders **including**
3 **receipt, transmission, or handling of such orders or facilitating the dispensing of such**
4 **orders, the designing, initiating, implementing, and monitoring of a medication therapeutic**
5 **plan based on a prescription order so long as the medication therapeutic plan is specific**
6 **to each patient for care by a specific pharmacy**; the compounding, dispensing [and], labeling,
7 **and administration** of drugs and devices pursuant to **medical or veterinary** prescription orders;
8 the participation in drug selection according to state law and participation in drug utilization
9 reviews; the proper and safe storage of drugs and devices and the maintenance of proper records
10 thereof; consultation with patients and other health care practitioners about the safe and effective
11 use of drugs and devices; [and] **or** the offering or performing of those acts, services, operations,
12 or transactions necessary in the conduct, operation, management and control of a pharmacy. No
13 person shall engage in the practice of pharmacy unless he is licensed under the provisions of this
14 chapter. This chapter shall not be construed to prohibit the use of auxiliary personnel under the
15 direct supervision of a pharmacist from assisting the pharmacist in any of his duties. This
16 assistance in no way is intended to relieve the pharmacist from his responsibilities for

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 compliance with this chapter and he will be responsible for the actions of the auxiliary personnel
18 acting in his assistance. This chapter shall also not be construed to prohibit or interfere with any
19 legally registered practitioner of medicine, dentistry, podiatry, or veterinary medicine, or the
20 practice of optometry in accordance with and as provided in sections 195.070 and 336.220,
21 RSMo, in the compounding or dispensing of his own prescriptions.

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

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

338.095. 1. The terms "prescription" and "prescription drug order" are hereby defined
2 as a lawful order for medications or devices issued and signed by an authorized prescriber within
3 the scope of his professional practice which is to be dispensed or administered by a pharmacist
4 or dispensed or administered pursuant to section 334.104, RSMo, to and for the ultimate user.
5 The terms "prescription" and "drug order" do not include an order for medication **requiring a**
6 **prescription to be dispensed**, which is provided for the immediate administration to the
7 ultimate user or recipient.

8 2. The term "telephone prescription" is defined as an order for medications or devices
9 transmitted to a pharmacist by telephone or similar electronic medium by an authorized
10 prescriber or his authorized agent acting in the course of his professional practice which is to be
11 dispensed or administered by a pharmacist or dispensed or administered pursuant to section
12 334.104, RSMo, to and for the ultimate user. A telephone prescription shall be promptly reduced
13 to written or electronic medium by the pharmacist and shall comply with all laws governing
14 prescriptions and record keeping.

15 3. A licensed pharmacist may lawfully provide prescription or medical information to
16 a licensed health care provider or his agent who is legally qualified to administer medications
17 and treatments and who is involved in the treatment of the patient. The information may be
18 derived by direct contact with the prescriber or through a written protocol approved by the
19 prescriber. Such information shall authorize the provider to administer appropriate medications
20 and treatments.

21 4. Nothing in this section shall be construed to limit the authority of other licensed health
22 care providers to prescribe, administer, or dispense medications and treatments within the scope
23 of their professional practice.

24 **5. It is unlawful for any person other than the patient or the patient's authorized**
25 **representative to accept a prescription presented to be dispensed unless that person is**
26 **located on a premises licensed by the board as a pharmacy.**