

SECOND REGULAR SESSION

HOUSE BILL NO. 1700

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES WASSON (Sponsor), TILLEY, PARSON, YAEGER, AVERY, KRATKY, PRATT, BRUNS, WELLS, DIXON, SATER, WALLACE, RICHARD, PAGE, KINGERY, COOPER (155), DONNELLY, STEVENSON, COOPER (120) AND THRELKELD (Co-sponsors).

Read 1st time February 8, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4936L.01I

AN ACT

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

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

Section A. Sections 338.010 and 338.095, RSMo, are repealed and two new sections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 or as defined by the prescription order so long as the medication therapeutic**
6 **plan is specific to each patient for care by a specific pharmacy or pharmacist; the**
7 **compounding, dispensing [and], labeling, and administration** of drugs and devices pursuant to
8 **medical or veterinary** prescription orders **and administration of vaccines by written protocol**
9 **authorized by a physician; the participation in drug selection according to state law and**
10 **participation in drug utilization reviews; the proper and safe storage of drugs and devices and the**
11 **maintenance of proper records thereof; consultation with patients and other health care**
12 **practitioners about the safe and effective use of drugs and devices; and the offering or performing**
13 **of those acts, services, operations, or transactions necessary in the conduct, operation,**

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.

14 management and control of a pharmacy. No person shall engage in the practice of pharmacy
15 unless he is licensed under the provisions of this chapter. This chapter shall not be construed to
16 prohibit the use of auxiliary personnel under the direct supervision of a pharmacist from assisting
17 the pharmacist in any of his duties. This assistance in no way is intended to relieve the
18 pharmacist from his responsibilities for compliance with this chapter and he will be responsible
19 for the actions of the auxiliary personnel acting in his assistance. This chapter shall also not be
20 construed to prohibit or interfere with any legally registered practitioner of medicine, dentistry,
21 podiatry, or veterinary medicine, or the practice of optometry in accordance with and as provided
22 in sections 195.070 and 336.220, RSMo, in the compounding or dispensing of his own
23 prescriptions.

24 **2. Any pharmacist who accepts a prescription order for a medication therapeutic**
25 **plan shall have a written protocol authorized by the physician who refers a person for**
26 **medication therapy services.**

27 **3.** Nothing in this section shall be construed as to prevent any person, firm or corporation
28 from owning a pharmacy regulated by sections 338.210 to 338.315, provided that a licensed
29 pharmacist is in charge of such pharmacy.

30 [3.] **4.** Nothing in this section shall be construed to apply to or interfere with the sale of
31 nonprescription drugs and the ordinary household remedies and such drugs or medicines as are
32 normally sold by those engaged in the sale of general merchandise.

33 **5. No health carrier as defined in chapter 376, RSMo, shall require any physician**
34 **with which they contract to enter into a written protocol with a pharmacist for medication**
35 **therapeutic services.**

36 **6. This section shall not be construed to allow a pharmacist to diagnose or**
37 **independently prescribe.**

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.**

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