

FIRST REGULAR SESSION

HOUSE BILL NO. 976

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE STEPHENS (128).

2065H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 338.010, RSMo, and to enact in lieu thereof one new section relating to pharmacists.

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

Section A. Section 338.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 338.010, to read as follows: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; 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]~~ **vaccines authorized or approved by the United States Food and Drug Administration and recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention**; 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

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 with patients and other health care practitioners, and veterinarians and their clients about legend
19 drugs, about the safe and effective use of drugs and devices; the prescribing and dispensing of
20 any nicotine replacement therapy product under section 338.665; and the offering or performing
21 of those acts, services, operations, or transactions necessary in the conduct, operation,
22 management and control of a pharmacy. No person shall engage in the practice of pharmacy
23 unless he or she is licensed under the provisions of this chapter. This chapter shall not be
24 construed to prohibit the use of auxiliary personnel under the direct supervision of a pharmacist
25 from assisting the pharmacist in any of his or her duties. This assistance in no way is intended
26 to relieve the pharmacist from his or her responsibilities for compliance with this chapter and he
27 or she will be responsible for the actions of the auxiliary personnel acting in his or her assistance.
28 This chapter shall also not be construed to prohibit or interfere with any legally registered
29 practitioner of medicine, dentistry, or podiatry, or veterinary medicine only for use in animals,
30 or the practice of optometry in accordance with and as provided in sections 195.070 and 336.220
31 in the compounding, administering, prescribing, or dispensing of his or her own prescriptions.

32 2. Any pharmacist who accepts a prescription order for a medication therapeutic plan
33 shall have a written protocol from the physician who refers the patient for medication therapy
34 services. The written protocol and the prescription order for a medication therapeutic plan shall
35 come from the physician only, and shall not come from a nurse engaged in a collaborative
36 practice arrangement under section 334.104, or from a physician assistant engaged in a
37 collaborative practice arrangement under section 334.735.

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

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

44 5. No health carrier as defined in chapter 376 shall require any physician with which they
45 contract to enter into a written protocol with a pharmacist for medication therapeutic services.

46 6. This section shall not be construed to allow a pharmacist to diagnose or independently
47 prescribe pharmaceuticals.

48 7. **No official, employee, board, commission, or agency of this state or any county,**
49 **municipality, school district, or other political subdivision of this state shall make or**
50 **promulgate any order, ordinance, rule, or regulation that reimburses a pharmacist for a**
51 **service at a rate that is different from the reimbursement rate specified for the same service**
52 **performed by a person licensed under chapter 334.**

53 **8.** The state board of registration for the healing arts, under section 334.125, and the state
54 board of pharmacy, under section 338.140, shall jointly promulgate rules regulating **the**
55 **administration of vaccines described in subsection 1 of this section** and the use of protocols
56 for prescription orders for medication therapy services ~~[and administration of viral influenza~~
57 ~~vaccines]~~. ~~[Such]~~ **Rules on medication therapy services** shall require protocols to include
58 provisions allowing for timely communication between the pharmacist and the referring
59 physician, and **rules on the administration of vaccines shall include provisions allowing for**
60 **timely communication between the pharmacist and the patient's primary care physician.**
61 **The rules shall include** any other patient protection provisions deemed appropriate by both
62 boards. In order to take effect, such rules shall be approved by a majority vote of a quorum of
63 each board. ~~[Neither board shall separately promulgate rules regulating the use of protocols for~~
64 ~~prescription orders for medication therapy services and administration of viral influenza~~
65 ~~vaccines.]~~ Any rule or portion of a rule, as that term is defined in section 536.010, that is created
66 under the authority delegated in this section shall become effective only if it complies with and
67 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section
68 and chapter 536 are nonseverable and if any of the powers vested with the general assembly
69 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule
70 are subsequently held unconstitutional, then the grant of rulemaking authority and any rule
71 proposed or adopted after August 28, 2007, shall be invalid and void.

72 ~~[8-]~~ **9.** The state board of pharmacy may grant a certificate of medication therapeutic plan
73 authority to a licensed pharmacist who submits proof of successful completion of a
74 board-approved course of academic clinical study beyond a bachelor of science in pharmacy,
75 including but not limited to clinical assessment skills, from a nationally accredited college or
76 university, or a certification of equivalence issued by a nationally recognized professional
77 organization and approved by the board of pharmacy.

78 ~~[9-]~~ **10.** Any pharmacist who has received a certificate of medication therapeutic plan
79 authority may engage in the designing, initiating, implementing, and monitoring of a medication
80 therapeutic plan as defined by a prescription order from a physician that is specific to each
81 patient for care by a pharmacist.

82 ~~[10-]~~ **11.** Nothing in this section shall be construed to allow a pharmacist to make a
83 therapeutic substitution of a pharmaceutical prescribed by a physician unless authorized by the
84 written protocol or the physician's prescription order.

85 ~~[11-]~~ **12.** "Veterinarian", "doctor of veterinary medicine", "practitioner of veterinary
86 medicine", "DVM", "VMD", "BVSe", "BVMS", "BSe (Vet Science)", "VMB", "MRCVS", or
87 an equivalent title means a person who has received a doctor's degree in veterinary medicine
88 from an accredited school of veterinary medicine or holds an Educational Commission for

89 Foreign Veterinary Graduates (EDFVG) certificate issued by the American Veterinary Medical
90 Association (AVMA).

91 ~~[12.]~~ **13.** In addition to other requirements established by the joint promulgation of rules
92 by the board of pharmacy and the state board of registration for the healing arts:

93 (1) A pharmacist shall administer vaccines ~~[by protocol]~~ **described in subsection 1 of**
94 **this section** in accordance with treatment guidelines established by the Centers for Disease
95 Control and Prevention (CDC);

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

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

103 ~~[13.]~~ **14.** A pharmacist shall inform the patient that the administration of the vaccine will
104 be entered into the ShowMeVax system, as administered by the department of health and senior
105 services. The patient shall attest to the inclusion of such information in the system by signing
106 a form provided by the pharmacist. If the patient indicates that he or she does not want such
107 information entered into the ShowMeVax system, the pharmacist shall provide a written report
108 within fourteen days of administration of a vaccine to the patient's primary health care provider,
109 if provided by the patient, containing:

- 110 (1) The identity of the patient;
111 (2) The identity of the vaccine or vaccines administered;
112 (3) The route of administration;
113 (4) The anatomic site of the administration;
114 (5) The dose administered; and
115 (6) The date of administration.

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