

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 864
98TH GENERAL ASSEMBLY

5462H.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 338.200, RSMo, and to enact in lieu thereof two new sections relating to the dispensing of medication.

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

Section A. Section 338.200, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 338.200 and 338.202, to read as follows:

338.200. 1. In the event a pharmacist is unable to obtain refill authorization from the prescriber due to death, incapacity, or when the pharmacist is unable to obtain refill authorization from the prescriber, a pharmacist may dispense an emergency supply of medication if:

(1) In the pharmacist's professional judgment, interruption of therapy might reasonably produce undesirable health consequences;

(2) The pharmacy previously dispensed or refilled a prescription from the applicable prescriber for the same patient and medication;

(3) The medication dispensed is not a controlled substance;

(4) The pharmacist informs the patient or the patient's agent either verbally, electronically, or in writing at the time of dispensing that authorization of a prescriber is required for future refills; and

(5) The pharmacist documents the emergency dispensing in the patient's prescription record, as provided by the board by rule.

2. (1) If the pharmacist is unable to obtain refill authorization from the prescriber, the amount dispensed shall be limited to the amount determined by the pharmacist within his or her professional judgment as needed for the emergency period, provided the amount dispensed shall not exceed a seven-day supply.

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 (2) In the event of prescriber death or incapacity or inability of the prescriber to provide
19 medical services, the amount dispensed shall not exceed a thirty-day supply.

20 3. Pharmacists or permit holders dispensing an emergency supply pursuant to this section
21 shall promptly notify the prescriber or the prescriber's office of the emergency dispensing, as
22 required by the board by rule.

23 4. An emergency supply may not be dispensed pursuant to this section if the pharmacist
24 has knowledge that the prescriber has otherwise prohibited or restricted emergency dispensing
25 for the applicable patient.

26 5. **The determination to dispense an emergency supply of medication under this**
27 **section shall only be made by a pharmacist licensed by the board.**

28 6. The board shall promulgate rules to implement the provisions of this section. Any
29 rule or portion of a rule, as that term is defined in section 536.010, that is created under the
30 authority delegated in this section shall become effective only if it complies with and is subject
31 to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
32 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant
33 to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
34 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed
35 or adopted after August 28, 2013, shall be invalid and void.

338.202. 1. Notwithstanding any other provision of law to the contrary, unless the
2 **prescriber has specified on the prescription that dispensing a prescription for a**
3 **maintenance medication in an initial amount followed by periodic refills is medically**
4 **necessary, a pharmacist may exercise his or her professional judgment to dispense varying**
5 **quantities of maintenance medication per fill up to the total number of dosage units as**
6 **authorized by the prescriber on the original prescription, including any refills. Dispensing**
7 **of the maintenance medication based on refills authorized by the prescriber on the**
8 **prescription shall be limited to no more than a ninety-day supply of the medication, and**
9 **the maintenance medication shall have been previously prescribed to the patient for at least**
10 **a three-month period.**

11 2. For the purposes of this section, "maintenance medication" is a medication
12 prescribed for chronic, long-term conditions and is taken on a regular, recurring basis,
13 except that it shall not include controlled substances as defined in section 195.010.

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