

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 826

99TH GENERAL ASSEMBLY

2018

5029S.11T

AN ACT

To repeal sections 191.227, 195.010, 195.070, 195.080, 210.070, 338.010, 338.056, 338.202, and 376.1237, RSMo, and to enact in lieu thereof thirteen new sections relating to health care, with an emergency clause for certain sections.

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

Section A. Sections 191.227, 195.010, 195.070, 195.080, 210.070, 338.010, 338.056, 338.202, and 376.1237, RSMo, are repealed and thirteen sections enacted in lieu thereof, to be known as sections 191.227, 195.010, 195.070, 195.080, 195.265, 208.183, 208.1070, 210.070, 338.010, 338.056, 338.202, 376.387, and 376.1237, to read as follows:

191.227. 1. All physicians, chiropractors, hospitals, dentists, and other duly licensed practitioners in this state, herein called "providers", shall, upon written request of a patient, or guardian or legally authorized representative of a patient, furnish a copy of his or her record of that patient's health history and treatment rendered to the person submitting a written request, except that such right shall be limited to access consistent with the patient's condition and sound therapeutic treatment as determined by the provider. Beginning August 28, 1994, such record shall be furnished within a reasonable time of the receipt of the request therefor and upon payment of a fee as provided in this section.

2. Health care providers may condition the furnishing of the patient's health care records to the patient, the patient's authorized representative or any

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

12 other person or entity authorized by law to obtain or reproduce such records upon
13 payment of a fee for:

14 (1) (a) Search and retrieval, in an amount not more than twenty-four
15 dollars and eighty-five cents plus copying in the amount of fifty-seven cents per
16 page for the cost of supplies and labor plus, if the health care provider has
17 contracted for off-site records storage and management, any additional labor costs
18 of outside storage retrieval, not to exceed twenty-three dollars and twenty-six
19 cents, as adjusted annually pursuant to subsection 5 of this section; or

20 (b) The records shall be furnished electronically upon payment of the
21 search, retrieval, and copying fees set under this section at the time of the
22 request or one hundred eight dollars and eighty-eight cents total, whichever is
23 less, if such person:

24 a. Requests health records to be delivered electronically in a format of the
25 health care provider's choice;

26 b. The health care provider stores such records completely in an electronic
27 health record; and

28 c. The health care provider is capable of providing the requested records
29 and affidavit, if requested, in an electronic format;

30 (2) Postage, to include packaging and delivery cost;

31 (3) Notary fee, not to exceed two dollars, if requested.

32 **3. For purposes of subsections 1 and 2 of this section, "a copy of**
33 **his or her record of that patient's health history and treatment**
34 **rendered" or "the patient's health care records" include a statement or**
35 **record that no such health history or treatment record responsive to**
36 **the request exists.**

37 **4.** Notwithstanding provisions of this section to the contrary, providers
38 may charge for the reasonable cost of all duplications of health care record
39 material or information which cannot routinely be copied or duplicated on a
40 standard commercial photocopy machine.

41 [4.] **5.** The transfer of the patient's record done in good faith shall not
42 render the provider liable to the patient or any other person for any consequences
43 which resulted or may result from disclosure of the patient's record as required
44 by this section.

45 [5.] **6.** Effective February first of each year, the fees listed in subsection
46 2 of this section shall be increased or decreased annually based on the annual
47 percentage change in the unadjusted, U.S. city average, annual average inflation
48 rate of the medical care component of the Consumer Price Index for All Urban

49 Consumers (CPI-U). The current reference base of the index, as published by the
50 Bureau of Labor Statistics of the United States Department of Labor, shall be
51 used as the reference base. For purposes of this subsection, the annual average
52 inflation rate shall be based on a twelve-month calendar year beginning in
53 January and ending in December of each preceding calendar year. The
54 department of health and senior services shall report the annual adjustment and
55 the adjusted fees authorized in this section on the department's internet website
56 by February first of each year.

57 [6.] 7. A health care provider may disclose a deceased patient's health
58 care records or payment records to the executor or administrator of the deceased
59 person's estate, or pursuant to a valid, unrevoked power of attorney for health
60 care that specifically directs that the deceased person's health care records be
61 released to the agent after death. If an executor, administrator, or agent has not
62 been appointed, the deceased prior to death did not specifically object to
63 disclosure of his or her records in writing, and such disclosure is not inconsistent
64 with any prior expressed preference of the deceased that is known to the health
65 care provider, a deceased patient's health care records may be released upon
66 written request of a person who is deemed as the personal representative of the
67 deceased person under this subsection. Priority shall be given to the deceased
68 patient's spouse and the records shall be released on the affidavit of the surviving
69 spouse that he or she is the surviving spouse. If there is no surviving spouse, the
70 health care records may be released to one of the following persons:

71 (1) The acting trustee of a trust created by the deceased patient either
72 alone or with the deceased patient's spouse;

73 (2) An adult child of the deceased patient on the affidavit of the adult
74 child that he or she is the adult child of the deceased;

75 (3) A parent of the deceased patient on the affidavit of the parent that he
76 or she is the parent of the deceased;

77 (4) An adult brother or sister of the deceased patient on the affidavit of
78 the adult brother or sister that he or she is the adult brother or sister of the
79 deceased;

80 (5) A guardian or conservator of the deceased patient at the time of the
81 patient's death on the affidavit of the guardian or conservator that he or she is
82 the guardian or conservator of the deceased; or

83 (6) A guardian ad litem of the deceased's minor child based on the
84 affidavit of the guardian that he or she is the guardian ad litem of the minor
85 child of the deceased.

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

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

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

14 [(2)] (3) "Administer", to apply a controlled substance, whether by
15 injection, inhalation, ingestion, or any other means, directly to the body of a
16 patient or research subject by:

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

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

21 [(3)] (4) "Agent", an authorized person who acts on behalf of or at the
22 direction of a manufacturer, distributor, or dispenser. The term does not include
23 a common or contract carrier, public warehouseman, or employee of the carrier
24 or warehouseman while acting in the usual and lawful course of the carrier's or
25 warehouseman's business;

26 [(4)] (5) "Attorney for the state", any prosecuting attorney, circuit
27 attorney, or attorney general authorized to investigate, commence and prosecute
28 an action under this chapter;

29 [(5)] (6) "Controlled substance", a drug, substance, or immediate
30 precursor in Schedules I through V listed in this chapter;

31 [(6)] (7) "Controlled substance analogue", a substance the chemical
32 structure of which is substantially similar to the chemical structure of a
33 controlled substance in Schedule I or II and:

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

38 (b) With respect to a particular individual, which that individual
39 represents or intends to have a stimulant, depressant, or hallucinogenic effect on
40 the central nervous system substantially similar to the stimulant, depressant, or
41 hallucinogenic effect on the central nervous system of a controlled substance
42 included in Schedule I or II. The term does not include a controlled substance;
43 any substance for which there is an approved new drug application; any
44 substance for which an exemption is in effect for investigational use, for a
45 particular person, under Section 505 of the federal Food, Drug and Cosmetic Act
46 (21 U.S.C. Section 355) to the extent conduct with respect to the substance is
47 pursuant to the exemption; or any substance to the extent not intended for
48 human consumption before such an exemption takes effect with respect to the
49 substance;

50 [(7)] (8) "Counterfeit substance", a controlled substance which, or the
51 container or labeling of which, without authorization, bears the trademark, trade
52 name, or other identifying mark, imprint, number or device, or any likeness
53 thereof, of a manufacturer, distributor, or dispenser other than the person who
54 in fact manufactured, distributed, or dispensed the substance;

55 [(8)] (9) "Deliver" or "delivery", the actual, constructive, or attempted
56 transfer from one person to another of drug paraphernalia or of a controlled
57 substance, or an imitation controlled substance, whether or not there is an agency
58 relationship, and includes a sale;

59 [(9)] (10) "Dentist", a person authorized by law to practice dentistry in
60 this state;

61 [(10)] (11) "Depressant or stimulant substance":

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

66 (b) A drug containing any quantity of:

67 a. Amphetamine or any of its isomers;

68 b. Any salt of amphetamine or any salt of an isomer of amphetamine; or

69 c. Any substance the United States Attorney General, after investigation,
70 has found to be, and by regulation designated as, habit forming because of its
71 stimulant effect on the central nervous system;

72 (c) Lysergic acid diethylamide; or

73 (d) Any drug containing any quantity of a substance that the United
74 States Attorney General, after investigation, has found to have, and by regulation

75 designated as having, a potential for abuse because of its depressant or stimulant
76 effect on the central nervous system or its hallucinogenic effect;

77 [(11)] (12) "Dispense", to deliver a narcotic or controlled dangerous drug
78 to an ultimate user or research subject by or pursuant to the lawful order of a
79 practitioner including the prescribing, administering, packaging, labeling, or
80 compounding necessary to prepare the substance for such delivery. "Dispenser"
81 means a practitioner who dispenses;

82 [(12)] (13) "Distribute", to deliver other than by administering or
83 dispensing a controlled substance;

84 [(13)] (14) "Distributor", a person who distributes;

85 [(14)] (15) "Drug":

86 (a) Substances recognized as drugs in the official United States
87 Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or
88 Official National Formulary, or any supplement to any of them;

89 (b) Substances intended for use in the diagnosis, cure, mitigation,
90 treatment or prevention of disease in humans or animals;

91 (c) Substances, other than food, intended to affect the structure or any
92 function of the body of humans or animals; and

93 (d) Substances intended for use as a component of any article specified in
94 this subdivision. It does not include devices or their components, parts or
95 accessories;

96 [(15)] (16) "Drug-dependent person", a person who is using a controlled
97 substance and who is in a state of psychic or physical dependence, or both, arising
98 from the use of such substance on a continuous basis. Drug dependence is
99 characterized by behavioral and other responses which include a strong
100 compulsion to take the substance on a continuous basis in order to experience its
101 psychic effects or to avoid the discomfort caused by its absence;

102 [(16)] (17) "Drug enforcement agency", the Drug Enforcement
103 Administration in the United States Department of Justice, or its successor
104 agency;

105 [(17)] (18) "Drug paraphernalia", all equipment, products, substances
106 and materials of any kind which are used, intended for use, or designed for use,
107 in planting, propagating, cultivating, growing, harvesting, manufacturing,
108 compounding, converting, producing, processing, preparing, storing, containing,
109 concealing, injecting, ingesting, inhaling, or otherwise introducing into the human
110 body a controlled substance or an imitation controlled substance in violation of
111 this chapter or chapter 579. It includes, but is not limited to:

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

115 (b) Kits used, intended for use, or designed for use in manufacturing,
116 compounding, converting, producing, processing, or preparing controlled
117 substances or imitation controlled substances;

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

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

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

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

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

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

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

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

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

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

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

148 b. Water pipes;

- 149 c. Carburetion tubes and devices;
- 150 d. Smoking and carburetion masks;
- 151 e. Roach clips meaning objects used to hold burning material, such as a
152 marijuana cigarette, that has become too small or too short to be held in the
153 hand;
- 154 f. Miniature cocaine spoons and cocaine vials;
- 155 g. Chamber pipes;
- 156 h. Carburetor pipes;
- 157 i. Electric pipes;
- 158 j. Air-driven pipes;
- 159 k. Chillums;
- 160 l. Bongs;
- 161 m. Ice pipes or chillers;
- 162 (m) Substances used, intended for use, or designed for use in the
163 manufacture of a controlled substance;
- 164 In determining whether an object, product, substance or material is drug
165 paraphernalia, a court or other authority should consider, in addition to all other
166 logically relevant factors, the following:
- 167 a. Statements by an owner or by anyone in control of the object concerning
168 its use;
- 169 b. Prior convictions, if any, of an owner, or of anyone in control of the
170 object, under any state or federal law relating to any controlled substance or
171 imitation controlled substance;
- 172 c. The proximity of the object, in time and space, to a direct violation of
173 this chapter or chapter 579;
- 174 d. The proximity of the object to controlled substances or imitation
175 controlled substances;
- 176 e. The existence of any residue of controlled substances or imitation
177 controlled substances on the object;
- 178 f. Direct or circumstantial evidence of the intent of an owner, or of anyone
179 in control of the object, to deliver it to persons who he or she knows, or should
180 reasonably know, intend to use the object to facilitate a violation of this chapter
181 or chapter 579; the innocence of an owner, or of anyone in control of the object,
182 as to direct violation of this chapter or chapter 579 shall not prevent a finding
183 that the object is intended for use, or designed for use as drug paraphernalia;
- 184 g. Instructions, oral or written, provided with the object concerning its
185 use;

186 h. Descriptive materials accompanying the object which explain or depict
187 its use;

188 i. National or local advertising concerning its use;

189 j. The manner in which the object is displayed for sale;

190 k. Whether the owner, or anyone in control of the object, is a legitimate
191 supplier of like or related items to the community, such as a licensed distributor
192 or dealer of tobacco products;

193 l. Direct or circumstantial evidence of the ratio of sales of the object to the
194 total sales of the business enterprise;

195 m. The existence and scope of legitimate uses for the object in the
196 community;

197 n. Expert testimony concerning its use;

198 o. The quantity, form or packaging of the product, substance or material
199 in relation to the quantity, form or packaging associated with any legitimate use
200 for the product, substance or material;

201 [(18)] **(19)** "Federal narcotic laws", the laws of the United States relating
202 to controlled substances;

203 [(19)] **(20)** "Hospital", a place devoted primarily to the maintenance and
204 operation of facilities for the diagnosis, treatment or care, for not less than
205 twenty-four hours in any week, of three or more nonrelated individuals suffering
206 from illness, disease, injury, deformity or other abnormal physical conditions; or
207 a place devoted primarily to provide, for not less than twenty-four consecutive
208 hours in any week, medical or nursing care for three or more nonrelated
209 individuals. The term "hospital" does not include convalescent, nursing, shelter
210 or boarding homes as defined in chapter 198;

211 [(20)] **(21)** "Immediate precursor", a substance which:

212 (a) The state department of health and senior services has found to be and
213 by rule designates as being the principal compound commonly used or produced
214 primarily for use in the manufacture of a controlled substance;

215 (b) Is an immediate chemical intermediary used or likely to be used in the
216 manufacture of a controlled substance; and

217 (c) The control of which is necessary to prevent, curtail or limit the
218 manufacture of the controlled substance;

219 [(21)] **(22)** "Imitation controlled substance", a substance that is not a
220 controlled substance, which by dosage unit appearance (including color, shape,
221 size and markings), or by representations made, would lead a reasonable person
222 to believe that the substance is a controlled substance. In determining whether

223 the substance is an imitation controlled substance the court or authority
224 concerned should consider, in addition to all other logically relevant factors, the
225 following:

226 (a) Whether the substance was approved by the federal Food and Drug
227 Administration for over-the-counter (nonprescription or nonlegend) sales and was
228 sold in the federal Food and Drug Administration approved package, with the
229 federal Food and Drug Administration approved labeling information;

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

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

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

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

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

244 **(23) "Initial prescription", a prescription issued to a patient who**
245 **has never previously been issued a prescription for the drug or its**
246 **pharmaceutical equivalent or who was previously issued a prescription**
247 **for the drug or its pharmaceutical equivalent, but the date on which**
248 **the current prescription is being issued is more than five months after**
249 **the date the patient last used or was administered the drug or its**
250 **equivalent;**

251 [(22)] **(24) "Laboratory", a laboratory approved by the department of**
252 **health and senior services as proper to be entrusted with the custody of controlled**
253 **substances but does not include a pharmacist who compounds controlled**
254 **substances to be sold or dispensed on prescriptions;**

255 [(23)] **(25) "Manufacture", the production, preparation, propagation,**
256 **compounding or processing of drug paraphernalia or of a controlled substance, or**
257 **an imitation controlled substance, either directly or by extraction from substances**
258 **of natural origin, or independently by means of chemical synthesis, or by a**
259 **combination of extraction and chemical synthesis, and includes any packaging or**

260 repackaging of the substance or labeling or relabeling of its container. This term
261 does not include the preparation or compounding of a controlled substance or an
262 imitation controlled substance or the preparation, compounding, packaging or
263 labeling of a narcotic or dangerous drug:

264 (a) By a practitioner as an incident to his or her administering or
265 dispensing of a controlled substance or an imitation controlled substance in the
266 course of his or her professional practice, or

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

270 [(24)] **(26)** "Marijuana", all parts of the plant genus Cannabis in any
271 species or form thereof, including, but not limited to Cannabis Sativa L.,
272 Cannabis Indica, Cannabis Americana, Cannabis Ruderalis, and Cannabis
273 Gigantea, whether growing or not, the seeds thereof, the resin extracted from any
274 part of the plant; and every compound, manufacture, salt, derivative, mixture, or
275 preparation of the plant, its seeds or resin. It does not include the mature stalks
276 of the plant, fiber produced from the stalks, oil or cake made from the seeds of the
277 plant, any other compound, manufacture, salt, derivative, mixture or preparation
278 of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or
279 the sterilized seed of the plant which is incapable of germination;

280 [(25)] **(27)** "Methamphetamine precursor drug", any drug containing
281 ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical
282 isomers, or salts of optical isomers;

283 [(26)] **(28)** "Narcotic drug", any of the following, whether produced
284 directly or indirectly by extraction from substances of vegetable origin, or
285 independently by means of chemical synthesis, or by a combination of extraction
286 and chemical analysis:

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

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

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

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

296 (e) Any compound, mixture, or preparation containing any quantity of any

297 substance referred to in paragraphs (a) to (d) of this subdivision;

298 [(27)] **(29)** "Official written order", an order written on a form provided
299 for that purpose by the United States Commissioner of Narcotics, under any laws
300 of the United States making provision therefor, if such order forms are authorized
301 and required by federal law, and if no such order form is provided, then on an
302 official form provided for that purpose by the department of health and senior
303 services;

304 [(28)] **(30)** "Opiate" or "**opioid**", any substance having an
305 addiction-forming or addiction-sustaining liability similar to morphine or being
306 capable of conversion into a drug having addiction-forming or
307 addiction-sustaining liability. The term includes its racemic and levorotatory
308 forms. It does not include, unless specifically controlled under section 195.017,
309 the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its salts
310 (dextromethorphan);

311 [(29)] **(31)** "Opium poppy", the plant of the species *Papaver somniferum*
312 L., except its seeds;

313 [(30)] **(32)** "Over-the-counter sale", a retail sale licensed pursuant to
314 chapter 144 of a drug other than a controlled substance;

315 [(31)] **(33)** "Person", an individual, corporation, government or
316 governmental subdivision or agency, business trust, estate, trust, partnership,
317 joint venture, association, or any other legal or commercial entity;

318 [(32)] **(34)** "Pharmacist", a licensed pharmacist as defined by the laws of
319 this state, and where the context so requires, the owner of a store or other place
320 of business where controlled substances are compounded or dispensed by a
321 licensed pharmacist; but nothing in this chapter shall be construed as conferring
322 on a person who is not registered nor licensed as a pharmacist any authority,
323 right or privilege that is not granted to him by the pharmacy laws of this state;

324 [(33)] **(35)** "Poppy straw", all parts, except the seeds, of the opium poppy,
325 after mowing;

326 [(34)] **(36)** "Possessed" or "possessing a controlled substance", a person,
327 with the knowledge of the presence and nature of a substance, has actual or
328 constructive possession of the substance. A person has actual possession if he has
329 the substance on his or her person or within easy reach and convenient control.
330 A person who, although not in actual possession, has the power and the intention
331 at a given time to exercise dominion or control over the substance either directly
332 or through another person or persons is in constructive possession of
333 it. Possession may also be sole or joint. If one person alone has possession of a

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

336 [(35)] (37) "Practitioner", a physician, dentist, optometrist, podiatrist,
337 veterinarian, scientific investigator, pharmacy, hospital or other person licensed,
338 registered or otherwise permitted by this state to distribute, dispense, conduct
339 research with respect to or administer or to use in teaching or chemical analysis,
340 a controlled substance in the course of professional practice or research in this
341 state, or a pharmacy, hospital or other institution licensed, registered, or
342 otherwise permitted to distribute, dispense, conduct research with respect to or
343 administer a controlled substance in the course of professional practice or
344 research;

345 [(36)] (38) "Production", includes the manufacture, planting, cultivation,
346 growing, or harvesting of drug paraphernalia or of a controlled substance or an
347 imitation controlled substance;

348 [(37)] (39) "Registry number", the number assigned to each person
349 registered under the federal controlled substances laws;

350 [(38)] (40) "Sale", includes barter, exchange, or gift, or offer therefor, and
351 each such transaction made by any person, whether as principal, proprietor,
352 agent, servant or employee;

353 [(39)] (41) "State" when applied to a part of the United States, includes
354 any state, district, commonwealth, territory, insular possession thereof, and any
355 area subject to the legal authority of the United States of America;

356 [(40)] (42) "Synthetic cannabinoid", includes unless specifically excepted
357 or unless listed in another schedule, any natural or synthetic material, compound,
358 mixture, or preparation that contains any quantity of a substance that is a
359 cannabinoid receptor agonist, including but not limited to any substance listed
360 in paragraph (ll) of subdivision (4) of subsection 2 of section 195.017 and any
361 analogues; homologues; isomers, whether optical, positional, or geometric; esters;
362 ethers; salts; and salts of isomers, esters, and ethers, whenever the existence of
363 the isomers, esters, ethers, or salts is possible within the specific chemical
364 designation, however, it shall not include any approved pharmaceutical
365 authorized by the United States Food and Drug Administration;

366 [(41)] (43) "Ultimate user", a person who lawfully possesses a controlled
367 substance or an imitation controlled substance for his or her own use or for the
368 use of a member of his or her household or immediate family, regardless of
369 whether they live in the same household, or for administering to an animal owned
370 by him or by a member of his or her household. For purposes of this section, the

371 phrase "immediate family" means a husband, wife, parent, child, sibling,
372 stepparent, stepchild, stepbrother, stepsister, grandparent, or grandchild;

373 [(42)] (44) "Wholesaler", a person who supplies drug paraphernalia or
374 controlled substances or imitation controlled substances that he himself has not
375 produced or prepared, on official written orders, but not on prescriptions.

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

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

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

27 4. A practitioner shall not accept any portion of a controlled substance
28 unused by a patient, for any reason, if such practitioner did not originally
29 dispense the drug, **except as provided in section 195.265.**

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

195.080. 1. Except as otherwise provided in this chapter and chapter 579,

2 this chapter and chapter 579 shall not apply to the following cases: prescribing,
3 administering, dispensing or selling at retail of liniments, ointments, and other
4 preparations that are susceptible of external use only and that contain controlled
5 substances in such combinations of drugs as to prevent the drugs from being
6 readily extracted from such liniments, ointments, or preparations, except that
7 this chapter and chapter 579 shall apply to all liniments, ointments, and other
8 preparations that contain coca leaves in any quantity or combination.

9 **2. Unless otherwise provided in sections 334.037, 334.104, and**
10 **334.747, a practitioner, other than a veterinarian, shall not issue an**
11 **initial prescription for more than a seven-day supply of any opioid**
12 **controlled substance upon the initial consultation and treatment of a**
13 **patient for acute pain. Upon any subsequent consultation for the same**
14 **pain, the practitioner may issue any appropriate renewal, refill, or new**
15 **prescription in compliance with the general provisions of this chapter**
16 **and chapter 579. Prior to issuing an initial prescription for an opioid**
17 **controlled substance, a practitioner shall consult with the patient**
18 **regarding the quantity of the opioid and the patient's option to fill the**
19 **prescription in a lesser quantity and shall inform the patient of the**
20 **risks associated with the opioid prescribed. If, in the professional**
21 **medical judgment of the practitioner, more than a seven-day supply is**
22 **required to treat the patient's acute pain, the practitioner may issue a**
23 **prescription for the quantity needed to treat the patient; provided, that**
24 **the practitioner shall document in the patient's medical record the**
25 **condition triggering the necessity for more than a seven-day supply and**
26 **that a nonopioid alternative was not appropriate to address the**
27 **patient's condition. The provisions of this subsection shall not apply**
28 **to prescriptions for opioid controlled substances for a patient who is**
29 **currently undergoing treatment for cancer, is receiving hospice care**
30 **from a hospice certified under chapter 197 or palliative care, is a**
31 **resident of a long-term care facility licensed under chapter 198, or is**
32 **receiving treatment for substance abuse or opioid dependence.**

33 **3. A pharmacist or pharmacy shall not be subject to disciplinary**
34 **action or other civil or criminal liability for dispensing or refusing to**
35 **dispense medication in good faith pursuant to an otherwise valid**
36 **prescription that exceeds the prescribing limits established by**
37 **subsection 2 of this section.**

38 **4. Unless otherwise provided in this section, the quantity of**

39 Schedule II controlled substances prescribed or dispensed at any one time shall
40 be limited to a thirty-day supply. The quantity of Schedule III, IV or V controlled
41 substances prescribed or dispensed at any one time shall be limited to a
42 ninety-day supply and shall be prescribed and dispensed in compliance with the
43 general provisions of this chapter and chapter 579. The supply limitations
44 provided in this subsection may be increased up to three months if the physician
45 describes on the prescription form or indicates via telephone, fax, or electronic
46 communication to the pharmacy to be entered on or attached to the prescription
47 form the medical reason for requiring the larger supply. The supply limitations
48 provided in this subsection shall not apply if:

49 (1) The prescription is issued by a practitioner located in another state
50 according to and in compliance with the applicable laws of that state and the
51 United States and dispensed to a patient located in another state; or

52 (2) The prescription is dispensed directly to a member of the United
53 States Armed Forces serving outside the United States.

54 [3.] 5. The partial filling of a prescription for a Schedule II substance is
55 permissible as defined by regulation by the department of health and senior
56 services.

**195.265. 1. Unused controlled substances may be accepted from
2 ultimate users, from hospice or home health care providers on behalf
3 of ultimate users to the extent federal law allows, or from any person
4 lawfully entitled to dispose of a decedent's property if the decedent was
5 an ultimate user who died while in lawful possession of a controlled
6 substance, through:**

7 (1) Collection receptacles, drug disposal boxes, mail back
8 packages, and other means by a Drug Enforcement Agency-authorized
9 collector in accordance with federal regulations, even if the authorized
10 collector did not originally dispense the drug; or

11 (2) Drug take back programs conducted by federal, state, tribal,
12 or local law enforcement agencies in partnership with any person or
13 entity.

14 This subsection shall supersede and preempt any local ordinances or
15 regulations, including any ordinances or regulations enacted by any
16 political subdivision of the state, regarding the disposal of unused
17 controlled substances. For the purposes of this section, the term
18 "ultimate user" shall mean a person who has lawfully obtained and
19 possesses a controlled substance for his or her own use or for the use

20 of a member of his or her household or for an animal owned by him or
21 her or a member of his or her household.

22 2. By August 28, 2019, the department of health and senior
23 services shall develop an education and awareness program regarding
24 drug disposal, including controlled substances. The education and
25 awareness program may include, but not be limited to:

26 (1) A web-based resource that:

27 (a) Describes available drug disposal options, including take
28 back, take back events, mail back packages, in-home disposal options
29 that render a product safe from misuse, or any other methods that
30 comply with state and federal laws and regulations, may reduce the
31 availability of unused controlled substances, and may minimize the
32 potential environmental impact of drug disposal;

33 (b) Provides a list of drug disposal take back sites, which may be
34 sorted and searched by name or location and is updated every six
35 months by the department;

36 (c) Provides a list of take back events and mail back events in
37 the state, including the date, time, and location information for each
38 event and is updated every six months by the department; and

39 (d) Provides information for authorized collectors regarding
40 state and federal requirements to comply with the provisions of
41 subsection 1 of this section; and

42 (2) Promotional activities designed to ensure consumer
43 awareness of proper storage and disposal of prescription drugs,
44 including controlled substances.

208.183. 1. There shall be established an "Advisory Council on
2 Rare Diseases and Personalized Medicine" within the MO HealthNet
3 division. The advisory council shall serve as an expert advisory
4 committee to the drug utilization review board, providing necessary
5 consultation to the board when the board makes recommendations or
6 determinations regarding beneficiary access to drugs or biological
7 products for rare diseases, or when the board itself determines that it
8 lacks the specific scientific, medical, or technical expertise necessary
9 for the proper performance of its responsibilities and such necessary
10 expertise can be provided by experts outside the board. "Beneficiary
11 access", as used in this section, shall mean developing prior
12 authorization and reauthorization criteria for a rare disease drug,

13 including placement on a preferred drug list or a formulary, as well as
14 payment, cost-sharing, drug utilization review, or medication therapy
15 management.

16 2. The advisory council on rare diseases and personalized
17 medicine shall be composed of the following health care professionals,
18 who shall be appointed by the director of the department of social
19 services:

20 (1) Two physicians affiliated with a public school of medicine
21 who are licensed and practicing in this state with experience
22 researching, diagnosing, or treating rare diseases;

23 (2) Two physicians affiliated with private schools of medicine
24 headquartered in this state who are licensed and practicing in this
25 state with experience researching, diagnosing, or treating rare
26 diseases;

27 (3) A physician who holds a doctor of osteopathy degree, who is
28 active in medical practice, and who is affiliated with a school of
29 medicine in this state with experience researching, diagnosing, or
30 treating rare diseases;

31 (4) Two medical researchers from either academic research
32 institutions or medical research organizations in this state who have
33 received federal or foundation grant funding for rare disease research;

34 (5) A registered nurse or advanced practice registered nurse
35 licensed and practicing in this state with experience treating rare
36 diseases;

37 (6) A pharmacist practicing in a hospital in this state which has
38 a designated orphan disease center;

39 (7) A professor employed by a pharmacy program in this state
40 that is fully accredited by the Accreditation Council for Pharmacy
41 Education and who has advanced scientific or medical training in
42 orphan and rare disease treatments;

43 (8) One individual representing the rare disease community or
44 who is living with a rare disease;

45 (9) One member who represents a rare disease foundation;

46 (10) A representative from a rare disease center located within
47 one of the state's comprehensive pediatric hospitals;

48 (11) The chairperson of the joint committee on the life sciences
49 or the chairperson's designee; and

50 **(12) The chairperson of the drug utilization review board, or the**
51 **chairperson's designee, who shall serve as an ex officio, nonvoting**
52 **member of the advisory council.**

53 **3. The director shall convene the first meeting of the advisory**
54 **council on rare diseases and personalized medicine no later than**
55 **February 28, 2019. Following the first meeting, the advisory council**
56 **shall meet upon the call of the chairperson of the drug utilization**
57 **review board or upon the request of a majority of the council members.**

58 **4. The drug utilization review board, when making**
59 **recommendations or determinations regarding beneficiary access to**
60 **drugs and biological products for rare diseases, as defined in the**
61 **federal Orphan Drug Act of 1983, P.L. 97-414, and drugs and biological**
62 **products that are approved by the U.S. Food and Drug Administration**
63 **and within the emerging fields of personalized medicine and**
64 **noninheritable gene editing therapeutics, shall request and consider**
65 **information from the advisory council on rare diseases and**
66 **personalized medicine.**

67 **5. The drug utilization review board shall seek the input of the**
68 **advisory council on rare diseases and personalized medicine to address**
69 **topics for consultation under this section including, but not limited to:**

70 **(1) Rare diseases;**

71 **(2) The severity of rare diseases;**

72 **(3) The unmet medical need associated with rare diseases;**

73 **(4) The impact of particular coverage, cost-sharing, tiering,**
74 **utilization management, prior authorization, medication therapy**
75 **management, or other Medicaid policies on access to rare disease**
76 **therapies;**

77 **(5) An assessment of the benefits and risks of therapies to treat**
78 **rare diseases;**

79 **(6) The impact of particular coverage, cost-sharing, tiering,**
80 **utilization management, prior authorization, medication therapy**
81 **management, or other Medicaid policies on patients' adherence to the**
82 **treatment regimen prescribed or otherwise recommended by their**
83 **physicians;**

84 **(7) Whether beneficiaries who need treatment from or a**
85 **consultation with a rare disease specialist have adequate access and,**
86 **if not, what factors are causing the limited access; and**

87 **(8) The demographics and the clinical description of patient**
88 **populations.**

89 **6. Nothing in this section shall be construed to create a legal**
90 **right for a consultation on any matter or to require the drug utilization**
91 **review board to meet with any particular expert or stakeholder.**

92 **7. Recommendations of the advisory council on rare diseases and**
93 **personalized medicine on an applicable treatment of a rare disease**
94 **shall be explained in writing to members of the drug utilization review**
95 **board during public hearings.**

96 **8. For purposes of this section, a "rare disease drug" shall mean**
97 **a drug used to treat a rare medical condition, defined as any disease or**
98 **condition that affects fewer than two hundred thousand persons in the**
99 **United States, such as cystic fibrosis, hemophilia, and multiple**
100 **myeloma.**

101 **9. All members of the advisory council on rare diseases and**
102 **personalized medicine shall annually sign a conflict of interest**
103 **statement revealing economic or other relationships with entities that**
104 **could influence a member's decisions, and at least twenty percent of the**
105 **advisory council members shall not have a conflict of interest with**
106 **respect to any insurer, pharmaceutical benefits manager, or**
107 **pharmaceutical manufacturer.**

208.1070. 1. For purposes of this section, the term "long-acting
2 **reversible contraceptive (LARC)" shall include, but not be limited to,**
3 **intrauterine devices (IUDs) and birth control implants.**

4 **2. Notwithstanding any other provision of law, any LARC that is**
5 **prescribed to and obtained for a MO HealthNet participant may be**
6 **transferred to another MO HealthNet participant if the LARC was not**
7 **delivered to, implanted in, or used on the original MO HealthNet**
8 **participant to whom the LARC was prescribed. In order to be**
9 **transferred to another MO HealthNet participant under the provisions**
10 **of this section, the LARC shall:**

11 **(1) Be in the original, unopened package;**

12 **(2) Have been in the possession of the health care provider for**
13 **at least twelve weeks. The provisions of this subdivision may be**
14 **waived upon the written consent of the original MO HealthNet**
15 **participant to whom the LARC was prescribed;**

16 **(3) Not have left the possession of the health care provider who**

17 **originally prescribed the LARC; and**

18 **(4) Be medically appropriate and not contraindicated for the MO**
19 **HealthNet participant to whom the LARC is being transferred.**

210.070. [Every] 1. A physician, midwife, or nurse who shall be in
2 attendance upon a newborn infant or its mother[,] shall drop into the eyes of such
3 infant [immediately after delivery,] a prophylactic [solution] **medication**
4 approved by the state department of health and senior services[, and shall within
5 forty-eight hours thereafter, report in writing to the board of health or county
6 physician of the city, town or county where such birth occurs, his or her
7 compliance with this section, stating the solution used by him or her].

8 **2. Administration of such eye drops shall not be required if a**
9 **parent or legal guardian of such infant objects to the treatment because**
10 **it is against the religious beliefs of the parent or legal guardian.**

338.010. 1. The "practice of pharmacy" means the interpretation,
2 implementation, and evaluation of medical prescription orders, including any
3 legend drugs under 21 U.S.C. Section 353; receipt, transmission, or handling of
4 such orders or facilitating the dispensing of such orders; the designing, initiating,
5 implementing, and monitoring of a medication therapeutic plan as defined by the
6 prescription order so long as the prescription order is specific to each patient for
7 care by a pharmacist; the compounding, dispensing, labeling, and administration
8 of drugs and devices pursuant to medical prescription orders and administration
9 of viral influenza, pneumonia, shingles, hepatitis A, hepatitis B, diphtheria,
10 tetanus, pertussis, and meningitis vaccines by written protocol authorized by a
11 physician for persons [twelve] **at least seven** years of age or [older as authorized
12 by rule] **the age recommended by the Centers for Disease Control and**
13 **Prevention, whichever is higher,** or the administration of pneumonia,
14 shingles, hepatitis A, hepatitis B, diphtheria, tetanus, pertussis, [and]
15 meningitis, **and viral influenza** vaccines by written protocol authorized by a
16 physician for a specific patient as authorized by rule; the participation in drug
17 selection according to state law and participation in drug utilization reviews; the
18 proper and safe storage of drugs and devices and the maintenance of proper
19 records thereof; consultation with patients and other health care practitioners,
20 and veterinarians and their clients about legend drugs, about the safe and
21 effective use of drugs and devices; and the offering or performing of those acts,
22 services, operations, or transactions necessary in the conduct, operation,
23 management and control of a pharmacy. No person shall engage in the practice
24 of pharmacy unless he is licensed under the provisions of this chapter. This

25 chapter shall not be construed to prohibit the use of auxiliary personnel under
26 the direct supervision of a pharmacist from assisting the pharmacist in any of his
27 or her duties. This assistance in no way is intended to relieve the pharmacist
28 from his or her responsibilities for compliance with this chapter and he or she
29 will be responsible for the actions of the auxiliary personnel acting in his or her
30 assistance. This chapter shall also not be construed to prohibit or interfere with
31 any legally registered practitioner of medicine, dentistry, or podiatry, or
32 veterinary medicine only for use in animals, or the practice of optometry in
33 accordance with and as provided in sections 195.070 and 336.220 in the
34 compounding, administering, prescribing, or dispensing of his or her own
35 prescriptions.

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

43 3. Nothing in this section shall be construed as to prevent any person,
44 firm or corporation from owning a pharmacy regulated by sections 338.210 to
45 338.315, provided that a licensed pharmacist is in charge of such pharmacy.

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

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

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

55 7. The state board of registration for the healing arts, under section
56 334.125, and the state board of pharmacy, under section 338.140, shall jointly
57 promulgate rules regulating the use of protocols for prescription orders for
58 medication therapy services and administration of viral influenza vaccines. Such
59 rules shall require protocols to include provisions allowing for timely
60 communication between the pharmacist and the referring physician, and any
61 other patient protection provisions deemed appropriate by both boards. In order

62 to take effect, such rules shall be approved by a majority vote of a quorum of each
63 board. Neither board shall separately promulgate rules regulating the use of
64 protocols for prescription orders for medication therapy services and
65 administration of viral influenza vaccines. Any rule or portion of a rule, as that
66 term is defined in section 536.010, that is created under the authority delegated
67 in this section shall become effective only if it complies with and is subject to all
68 of the provisions of chapter 536 and, if applicable, section 536.028. This section
69 and chapter 536 are nonseverable and if any of the powers vested with the
70 general assembly pursuant to chapter 536 to review, to delay the effective date,
71 or to disapprove and annul a rule are subsequently held unconstitutional, then
72 the grant of rulemaking authority and any rule proposed or adopted after August
73 28, 2007, shall be invalid and void.

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

81 9. Any pharmacist who has received a certificate of medication therapeutic
82 plan authority may engage in the designing, initiating, implementing, and
83 monitoring of a medication therapeutic plan as defined by a prescription order
84 from a physician that is specific to each patient for care by a pharmacist.

85 10. Nothing in this section shall be construed to allow a pharmacist to
86 make a therapeutic substitution of a pharmaceutical prescribed by a physician
87 unless authorized by the written protocol or the physician's prescription order.

88 11. "Veterinarian", "doctor of veterinary medicine", "practitioner of
89 veterinary medicine", "DVM", "VMD", "BVSe", "BVMS", "BSe (Vet Science)",
90 "VMB", "MRCVS", or an equivalent title means a person who has received a
91 doctor's degree in veterinary medicine from an accredited school of veterinary
92 medicine or holds an Educational Commission for Foreign Veterinary Graduates
93 (EDFVG) certificate issued by the American Veterinary Medical Association
94 (AVMA).

95 12. In addition to other requirements established by the joint
96 promulgation of rules by the board of pharmacy and the state board of
97 registration for the healing arts:

98 (1) A pharmacist shall administer vaccines by protocol in accordance with

99 treatment guidelines established by the Centers for Disease Control and
100 Prevention (CDC);

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

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

109 13. **A pharmacist shall inform the patient that the administration**
110 **of the vaccine will be entered into the ShowMeVax system, as**
111 **administered by the department of health and senior services. The**
112 **patient shall attest to the inclusion of such information in the system**
113 **by signing a form provided by the pharmacist. If the patient indicates**
114 **that he or she does not want such information entered into the**
115 **ShowMeVax system, the pharmacist shall provide a written report within**
116 **fourteen days of administration of a vaccine to the patient's primary health care**
117 **provider, if provided by the patient, containing:**

- 118 (1) The identity of the patient;
119 (2) The identity of the vaccine or vaccines administered;
120 (3) The route of administration;
121 (4) The anatomic site of the administration;
122 (5) The dose administered; and
123 (6) The date of administration.

338.056. 1. Except as provided in subsection 2 of this section, the
2 pharmacist filling prescription orders for drug products prescribed by trade or
3 brand name may select another drug product with the same active chemical
4 ingredients of the same strength, quantity and dosage form, and of the same
5 generic drug or interchangeable biological product type, as determined by the
6 United States Adopted Names and accepted by the Federal Food and Drug
7 Administration. Selection pursuant to this section is within the discretion of the
8 pharmacist, except as provided in subsection 2 of this section. The pharmacist
9 who selects the drug or interchangeable biological product to be dispensed
10 pursuant to this section shall assume the same responsibility for selecting the
11 dispensed drug or biological product as would be incurred in filling a prescription
12 for a drug or interchangeable biological product prescribed by generic or

13 interchangeable biologic name. The pharmacist shall not select a drug or
14 interchangeable biological product pursuant to this section unless the product
15 selected costs the patient less than the prescribed product.

16 2. A pharmacist who receives a prescription for a brand name drug or
17 biological product may[, unless requested otherwise by the purchaser,] select a
18 less expensive generically equivalent or interchangeable biological product [under
19 the following circumstances:

20 (1) If a written prescription is involved, the prescription form used shall
21 have two signature lines at opposite ends at the bottom of the form. Under the
22 line at the right side shall be clearly printed the words: "Dispense as
23 Written". Under the line at the left side shall be clearly printed the words
24 "Substitution Permitted". The prescriber shall communicate the instructions to
25 the pharmacist by signing the appropriate line] **unless:**

26 **(1) The patient requests a brand name drug or biological**
27 **product; or**

28 **(2) The prescribing practitioner indicates that substitution is**
29 **prohibited or displays "brand medically necessary", "dispense as**
30 **written", "do not substitute", "DAW", or words of similar import on the**
31 **prescription.**

32 3. No prescription shall be valid without the signature of the prescriber
33 [on one of these lines;

34 (2)].

35 4. If an oral prescription is involved, the practitioner or the practitioner's
36 agent, communicating the instructions to the pharmacist, shall instruct the
37 pharmacist as to whether or not a therapeutically equivalent generic drug or
38 interchangeable biological product may be substituted. The pharmacist shall note
39 the instructions on the file copy of the prescription.

40 [3. All prescriptions written in the state of Missouri by practitioners
41 authorized to write prescriptions shall be on forms which comply with subsection
42 2 hereof.

43 4.] **5.** Notwithstanding the provisions of subsection 2 of this section to the
44 contrary, a pharmacist may fill a prescription for a brand name drug by
45 substituting a generically equivalent drug or interchangeable biological product
46 when substitution is allowed in accordance with the laws of the state where the
47 prescribing practitioner is located.

48 [5.] **6.** Violations of this section are infractions.

338.202. 1. Notwithstanding any other provision of law to the contrary,

2 unless the prescriber has specified on the prescription that dispensing a
3 prescription for a maintenance medication in an initial amount followed by
4 periodic refills is medically necessary, a pharmacist may exercise his or her
5 professional judgment to dispense varying quantities of maintenance medication
6 per fill, up to the total number of dosage units as authorized by the prescriber on
7 the original prescription, including any refills. Dispensing of the maintenance
8 medication based on refills authorized by the physician or prescriber on the
9 prescription shall be limited to no more than a ninety-day supply of the
10 medication, and the maintenance medication shall have been previously
11 prescribed to the patient for at least a three-month period. **The supply**
12 **limitations provided in this subsection shall not apply if the**
13 **prescription is issued by a practitioner located in another state**
14 **according to and in compliance with the applicable laws of that state**
15 **and the United States or dispensed to a patient who is a member of the**
16 **United States Armed Forces serving outside the United States.**

17 2. For the purposes of this section, "maintenance medication" is and
18 means a medication prescribed for chronic long-term conditions and that is taken
19 on a regular, recurring basis; except that, it shall not include controlled
20 substances, as defined in and under section 195.010.

376.387. 1. For purposes of this section, the following terms shall
2 **mean:**

3 **(1) "Covered person", the same meaning as such term is defined**
4 **in section 376.1257;**

5 **(2) "Health benefit plan", the same meaning as such term is**
6 **defined in section 376.1350;**

7 **(3) "Pharmacy benefits manager", the same meaning as such term**
8 **is defined in section 376.388.**

9 2. No pharmacy benefits manager shall include a provision in a
10 contract entered into or modified on or after August 28, 2018, with a
11 pharmacy or pharmacist that requires a covered person to make a
12 payment for a prescription drug at the point of sale in an amount that
13 exceeds the lesser of:

14 **(1) The copayment amount as required under the health benefit**
15 **plan; or**

16 **(2) The amount an individual would pay for a prescription if that**
17 **individual paid with cash.**

18 3. A pharmacy or pharmacist shall have the right to provide to

19 a covered person information regarding the amount of the covered
20 person's cost share for a prescription drug, the covered person's cost
21 of an alternative drug, and the covered person's cost of the drug
22 without adjudicating the claim through the pharmacy benefits
23 manager. Neither a pharmacy nor a pharmacist shall be proscribed by
24 a pharmacy benefits manager from discussing any such information or
25 from selling a more affordable alternative to the covered person.

26 4. No pharmacy benefits manager shall, directly or indirectly,
27 charge or hold a pharmacist or pharmacy responsible for any fee
28 amount related to a claim that is not known at the time of the claim's
29 adjudication, unless the amount is a result of improperly paid claims
30 or charges for administering a health benefit plan.

31 5. This section shall not apply with respect to claims under
32 Medicare Part D, or any other plan administered or regulated solely
33 under federal law, and to the extent this section may be preempted
34 under the Employee Retirement Income Security Act of 1974 for self-
35 funded employer sponsored health benefit plans.

36 6. The department of insurance, financial institutions and
37 professional registration shall enforce this section.

376.1237. 1. Each health carrier or health benefit plan that offers or
2 issues health benefit plans which are delivered, issued for delivery, continued, or
3 renewed in this state on or after January 1, 2014, and that provides coverage for
4 prescription eye drops shall provide coverage for the refilling of an eye drop
5 prescription prior to the last day of the prescribed dosage period without regard
6 to a coverage restriction for early refill of prescription renewals as long as the
7 prescribing health care provider authorizes such early refill, and the health
8 carrier or the health benefit plan is notified.

9 2. For the purposes of this section, health carrier and health benefit plan
10 shall have the same meaning as defined in section 376.1350.

11 3. The coverage required by this section shall not be subject to any greater
12 deductible or co-payment than other similar health care services provided by the
13 health benefit plan.

14 4. The provisions of this section shall not apply to a supplemental
15 insurance policy, including a life care contract, accident-only policy, specified
16 disease policy, hospital policy providing a fixed daily benefit only, Medicare
17 supplement policy, long-term care policy, short-term major medical policies of six
18 months' or less duration, or any other supplemental policy as determined by the

19 director of the department of insurance, financial institutions and professional
20 registration.

21 [5. The provisions of this section shall terminate on January 1, 2020.]

Section B. Because immediate action is necessary to allow for the safe
2 disposal of unused pharmaceuticals, the enactment of section 195.265 and the
3 repeal and reenactment of section 195.070 of this act is deemed necessary for the
4 immediate preservation of the public health, welfare, peace, and safety, and is
5 hereby declared to be an emergency act within the meaning of the constitution,
6 and the enactment of section 195.265 and the repeal and reenactment of section
7 195.070 of this act shall be in full force and effect upon its passage and approval.

Unofficial

✓

Bill

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