

SENATE BILL NO. 1423

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CRAWFORD.

5640S.011

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 195.010, 195.030, 195.070, 334.031, 334.035, and 338.165, RSMo, and to enact in lieu thereof six new sections relating to health care providers.

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

Section A. Sections 195.010, 195.030, 195.070, 334.031,
2 334.035, and 338.165, RSMo, are repealed and six new sections
3 enacted in lieu thereof, to be known as sections 195.010,
4 195.030, 195.070, 334.031, 334.035, and 338.165, to read as
5 follows:

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

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

11 (2) "Addict", a person who habitually uses one or more
12 controlled substances to such an extent as to create a
13 tolerance for such drugs, and who does not have a medical
14 need for such drugs, or who is so far addicted to the use of

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

15 such drugs as to have lost the power of self-control with
16 reference to his or her addiction;

17 (3) "Administer", to apply a controlled substance,
18 whether by injection, inhalation, ingestion, or any other
19 means, directly to the body of a patient or research subject
20 by:

21 (a) A practitioner (or, in his or her presence, by his
22 or her authorized agent); or

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

25 (4) "Agent", an authorized person who acts on behalf
26 of or at the direction of a manufacturer, distributor, or
27 dispenser. The term does not include a common or contract
28 carrier, public warehouseman, or employee of the carrier or
29 warehouseman while acting in the usual and lawful course of
30 the carrier's or warehouseman's business;

31 (5) "Attorney for the state", any prosecuting
32 attorney, circuit attorney, or attorney general authorized
33 to investigate, commence and prosecute an action under this
34 chapter;

35 (6) "Controlled substance", a drug, substance, or
36 immediate precursor in Schedules I through V listed in this
37 chapter;

38 (7) "Controlled substance analogue", a substance the
39 chemical structure of which is substantially similar to the
40 chemical structure of a controlled substance in Schedule I
41 or II and:

42 (a) Which has a stimulant, depressant, or
43 hallucinogenic effect on the central nervous system
44 substantially similar to the stimulant, depressant, or
45 hallucinogenic effect on the central nervous system of a
46 controlled substance included in Schedule I or II; or

47 (b) With respect to a particular individual, which
48 that individual represents or intends to have a stimulant,
49 depressant, or hallucinogenic effect on the central nervous
50 system substantially similar to the stimulant, depressant,
51 or hallucinogenic effect on the central nervous system of a
52 controlled substance included in Schedule I or II. The term
53 does not include a controlled substance; any substance for
54 which there is an approved new drug application; any
55 substance for which an exemption is in effect for
56 investigational use, for a particular person, under Section
57 505 of the federal Food, Drug and Cosmetic Act (21 U.S.C.
58 Section 355) to the extent conduct with respect to the
59 substance is pursuant to the exemption; or any substance to
60 the extent not intended for human consumption before such an
61 exemption takes effect with respect to the substance;

62 (8) "Counterfeit substance", a controlled substance
63 which, or the container or labeling of which, without
64 authorization, bears the trademark, trade name, or other
65 identifying mark, imprint, number or device, or any likeness
66 thereof, of a manufacturer, distributor, or dispenser other
67 than the person who in fact manufactured, distributed, or
68 dispensed the substance;

69 (9) "Deliver" or "delivery", the actual, constructive,
70 or attempted transfer from one person to another of drug
71 paraphernalia or of a controlled substance, or an imitation
72 controlled substance, whether or not there is an agency
73 relationship, and includes a sale;

74 (10) "Dentist", a person authorized by law to practice
75 dentistry in this state;

76 (11) "Depressant or stimulant substance":

77 (a) A drug containing any quantity of barbituric acid
78 or any of the salts of barbituric acid or any derivative of

79 barbituric acid which has been designated by the United
80 States Secretary of Health and Human Services as habit
81 forming under 21 U.S.C. Section 352(d);

82 (b) A drug containing any quantity of:

83 a. Amphetamine or any of its isomers;

84 b. Any salt of amphetamine or any salt of an isomer of
85 amphetamine; or

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

90 (c) Lysergic acid diethylamide; or

91 (d) Any drug containing any quantity of a substance
92 that the United States Attorney General, after
93 investigation, has found to have, and by regulation
94 designated as having, a potential for abuse because of its
95 depressant or stimulant effect on the central nervous system
96 or its hallucinogenic effect;

97 (12) "Dispense", to deliver a narcotic or controlled
98 dangerous drug to an ultimate user or research subject by or
99 pursuant to the lawful order of a practitioner including the
100 prescribing, administering, packaging, labeling, or
101 compounding necessary to prepare the substance for such
102 delivery. "Dispenser" means a practitioner who dispenses;

103 (13) "Distribute", to deliver other than by
104 administering or dispensing a controlled substance;

105 (14) "Distributor", a person who distributes;

106 (15) "Drug":

107 (a) Substances recognized as drugs in the official
108 United States Pharmacopoeia, Official Homeopathic
109 Pharmacopoeia of the United States, or Official National
110 Formulary, or any supplement to any of them;

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

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

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

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

(17) "Drug enforcement agency", the Drug Enforcement Administration in the United States Department of Justice, or its successor agency;

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

(a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting

of any species of plant which is a controlled substance or from which a controlled substance can be derived;

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

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

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

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

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

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

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

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

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

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

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

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

b. Water pipes;

c. Carburetion tubes and devices;

d. Smoking and carburetion masks;

e. Roach clips meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

f. Miniature cocaine spoons and cocaine vials;

g. Chamber pipes;

h. Carburetor pipes;

i. Electric pipes;

j. Air-driven pipes;

k. Chillums;

l. Bongs;

m. Ice pipes or chillers;

(m) Substances used, intended for use, or designed for use in the manufacture of a controlled substance.

205 In determining whether an object, product, substance or
206 material is drug paraphernalia, a court or other authority
207 should consider, in addition to all other logically relevant
208 factors, the following:

209 a. Statements by an owner or by anyone in control of
210 the object concerning its use;

211 b. Prior convictions, if any, of an owner, or of
212 anyone in control of the object, under any state or federal
213 law relating to any controlled substance or imitation
214 controlled substance;

215 c. The proximity of the object, in time and space, to
216 a direct violation of this chapter or chapter 579;

217 d. The proximity of the object to controlled
218 substances or imitation controlled substances;

219 e. The existence of any residue of controlled
220 substances or imitation controlled substances on the object;

221 f. Direct or circumstantial evidence of the intent of
222 an owner, or of anyone in control of the object, to deliver
223 it to persons who he or she knows, or should reasonably
224 know, intend to use the object to facilitate a violation of
225 this chapter or chapter 579; the innocence of an owner, or
226 of anyone in control of the object, as to direct violation
227 of this chapter or chapter 579 shall not prevent a finding
228 that the object is intended for use, or designed for use as
229 drug paraphernalia;

230 g. Instructions, oral or written, provided with the
231 object concerning its use;

232 h. Descriptive materials accompanying the object which
233 explain or depict its use;

234 i. National or local advertising concerning its use;

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

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

241 l. Direct or circumstantial evidence of the ratio of
242 sales of the object to the total sales of the business
243 enterprise;

244 m. The existence and scope of legitimate uses for the
245 object in the community;

246 n. Expert testimony concerning its use;

247 o. The quantity, form or packaging of the product,
248 substance or material in relation to the quantity, form or
249 packaging associated with any legitimate use for the
250 product, substance or material;

251 (19) "Federal narcotic laws", the laws of the United
252 States relating to controlled substances;

253 (20) "Hospital", a place devoted primarily to the
254 maintenance and operation of facilities for the diagnosis,
255 treatment or care, for not less than twenty-four hours in
256 any week, of three or more nonrelated individuals suffering
257 from illness, disease, injury, deformity or other abnormal
258 physical conditions; or a place devoted primarily to
259 provide, for not less than twenty-four consecutive hours in
260 any week, medical or nursing care for three or more
261 nonrelated individuals. The term hospital does not include
262 convalescent, nursing, shelter or boarding homes as defined
263 in chapter 198, **but shall include outpatient facilities**
264 **owned and operated by a hospital;**

265 (21) "Illegal industrial hemp":

266 (a) All nonseed parts and varieties of the *Cannabis*
267 *sativa* L. plant, growing or not, that contain an average

delta-9 tetrahydrocannabinol (THC) concentration exceeding three-tenths of one percent on a dry weight basis;

(b) Illegal industrial hemp shall be destroyed in the most effective manner possible, and such destruction shall be verified by the Missouri state highway patrol;

(22) "Immediate precursor", a substance which:

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

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

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

(23) "Imitation controlled substance", a substance that is not a controlled substance, which by dosage unit appearance (including color, shape, size and markings), or by representations made, would lead a reasonable person to believe that the substance is a controlled substance. In determining whether the substance is an imitation controlled substance the court or authority concerned should consider, in addition to all other logically relevant factors, the following:

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

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

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

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

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

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

(24) "Industrial hemp":

(a) All nonseed parts and varieties of the *Cannabis sativa* L. plant, growing or not, that contain an average delta-9 tetrahydrocannabinol (THC) concentration that does not exceed three-tenths of one percent on a dry weight basis or the maximum concentration allowed under federal law, whichever is greater;

(b) Any *Cannabis sativa* L. seed that is part of a growing crop, retained by a grower for future planting, or used for processing into or use as agricultural hemp seed;

(c) Industrial hemp includes industrial hemp commodities and products and topical or ingestible animal

and consumer products derived from industrial hemp with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis;

(25) "Initial prescription", a prescription issued to a patient who has never previously been issued a prescription for the drug or its pharmaceutical equivalent or who was previously issued a prescription for the drug or its pharmaceutical equivalent, but the date on which the current prescription is being issued is more than five months after the date the patient last used or was administered the drug or its equivalent;

(26) "Laboratory", a laboratory approved by the department of health and senior services as proper to be entrusted with the custody of controlled substances but does not include a pharmacist who compounds controlled substances to be sold or dispensed on prescriptions;

(27) "Manufacture", the production, preparation, propagation, compounding or processing of drug paraphernalia or of a controlled substance, or an imitation controlled substance, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include the preparation or compounding of a controlled substance or an imitation controlled substance or the preparation, compounding, packaging or labeling of a narcotic or dangerous drug:

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

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

(28) "Marijuana", all parts of the plant genus *Cannabis* in any species or form thereof, including, but not limited to *Cannabis Sativa L.*, except industrial hemp, *Cannabis Indica*, *Cannabis Americana*, *Cannabis Ruderalis*, and *Cannabis Gigantea*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination;

(29) "Methamphetamine precursor drug", any drug containing ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers;

(30) "Narcotic drug", any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical analysis:

(a) Opium, opiate, and any derivative, of opium or opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within

the specific chemical designation. The term does not include the isoquinoline alkaloids of opium;

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

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

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

(e) Any compound, mixture, or preparation containing any quantity of any substance referred to in paragraphs (a) to (d) of this subdivision;

(31) "Official written order", an order written on a form provided for that purpose by the United States Commissioner of Narcotics, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided, then on an official form provided for that purpose by the department of health and senior services;

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

(33) "Opium poppy", the plant of the species *Papaver somniferum* L., except its seeds;

(34) "Over-the-counter sale", a retail sale licensed pursuant to chapter 144 of a drug other than a controlled substance;

425 (35) "Person", an individual, corporation, government
426 or governmental subdivision or agency, business trust,
427 estate, trust, partnership, joint venture, association, or
428 any other legal or commercial entity;

429 (36) "Pharmacist", a licensed pharmacist as defined by
430 the laws of this state, and where the context so requires,
431 the owner of a store or other place of business where
432 controlled substances are compounded or dispensed by a
433 licensed pharmacist; but nothing in this chapter shall be
434 construed as conferring on a person who is not registered
435 nor licensed as a pharmacist any authority, right or
436 privilege that is not granted to him by the pharmacy laws of
437 this state;

438 (37) "Poppy straw", all parts, except the seeds, of
439 the opium poppy, after mowing;

440 (38) "Possessed" or "possessing a controlled
441 substance", a person, with the knowledge of the presence and
442 nature of a substance, has actual or constructive possession
443 of the substance. A person has actual possession if he has
444 the substance on his or her person or within easy reach and
445 convenient control. A person who, although not in actual
446 possession, has the power and the intention at a given time
447 to exercise dominion or control over the substance either
448 directly or through another person or persons is in
449 constructive possession of it. Possession may also be sole
450 or joint. If one person alone has possession of a substance
451 possession is sole. If two or more persons share possession
452 of a substance, possession is joint;

453 (39) "Practitioner", a physician, dentist,
454 optometrist, podiatrist, veterinarian, scientific
455 investigator, pharmacy, hospital or other person licensed,
456 registered or otherwise permitted by this state to

457 distribute, dispense, conduct research with respect to or
458 administer or to use in teaching or chemical analysis, a
459 controlled substance in the course of professional practice
460 or research in this state, or a pharmacy, hospital or other
461 institution licensed, registered, or otherwise permitted to
462 distribute, dispense, conduct research with respect to or
463 administer a controlled substance in the course of
464 professional practice or research;

465 (40) "Production", includes the manufacture, planting,
466 cultivation, growing, or harvesting of drug paraphernalia or
467 of a controlled substance or an imitation controlled
468 substance;

469 (41) "Registry number", the number assigned to each
470 person registered under the federal controlled substances
471 laws;

472 (42) "Sale", includes barter, exchange, or gift, or
473 offer therefor, and each such transaction made by any
474 person, whether as principal, proprietor, agent, servant or
475 employee;

476 (43) "State" when applied to a part of the United
477 States, includes any state, district, commonwealth,
478 territory, insular possession thereof, and any area subject
479 to the legal authority of the United States of America;

480 (44) "Synthetic cannabinoid", includes unless
481 specifically excepted or unless listed in another schedule,
482 any natural or synthetic material, compound, mixture, or
483 preparation that contains any quantity of a substance that
484 is a cannabinoid receptor agonist, including but not limited
485 to any substance listed in paragraph (11) of subdivision (4)
486 of subsection 2 of section 195.017 and any analogues;
487 homologues; isomers, whether optical, positional, or
488 geometric; esters; ethers; salts; and salts of isomers,

489 esters, and ethers, whenever the existence of the isomers,
490 esters, ethers, or salts is possible within the specific
491 chemical designation, however, it shall not include any
492 approved pharmaceutical authorized by the United States Food
493 and Drug Administration;

494 (45) "Ultimate user", a person who lawfully possesses
495 a controlled substance or an imitation controlled substance
496 for his or her own use or for the use of a member of his or
497 her household or immediate family, regardless of whether
498 they live in the same household, or for administering to an
499 animal owned by him or by a member of his or her household.
500 For purposes of this section, the phrase "immediate family"
501 means a husband, wife, parent, child, sibling, stepparent,
502 stepchild, stepbrother, stepsister, grandparent, or
503 grandchild;

504 (46) "Wholesaler", a person who supplies drug
505 paraphernalia or controlled substances or imitation
506 controlled substances that he himself has not produced or
507 prepared, on official written orders, but not on
508 prescriptions.

195.030. 1. The department of health and senior
2 services upon public notice and hearing pursuant to this
3 section and chapter 536 may promulgate rules and charge
4 reasonable fees relating to the registration and control of
5 the manufacture, distribution and dispensing of controlled
6 substances within this state. No rule or portion of a rule
7 promulgated pursuant to the authority of this chapter shall
8 become effective unless it has been promulgated pursuant to
9 the provisions of section 536.024.

10 2. No person shall manufacture, compound, mix,
11 cultivate, grow, or by any other process produce or prepare,
12 distribute, dispense or prescribe any controlled substance

13 and no person as a wholesaler shall supply the same, without
14 having first obtained a registration issued by the
15 department of health and senior services in accordance with
16 rules and regulations promulgated by it. No registration
17 shall be granted for a term exceeding three years.

18 3. Persons registered by the department of health and
19 senior services pursuant to this chapter to manufacture,
20 distribute, or dispense or conduct research with controlled
21 substances are authorized to possess, manufacture,
22 distribute or dispense such substances, including any such
23 activity in the conduct of research, to the extent
24 authorized by their registration and in conformity with
25 other provisions of this chapter and chapter 579.

26 4. The following persons shall not be required to
27 register and may lawfully possess controlled substances
28 pursuant to this chapter and chapter 579:

29 (1) An agent or employee, excluding physicians,
30 dentists, optometrists, podiatrists or veterinarians, of any
31 registered manufacturer, distributor, or dispenser of any
32 controlled substance if such agent is acting in the usual
33 course of his or her business or employment;

34 (2) A common or contract carrier or warehouseman, or
35 an employee thereof, whose possession of any controlled
36 substance is in the usual course of business or employment;

37 (3) An ultimate user or a person in possession of any
38 controlled substance pursuant to a lawful order of a
39 practitioner or in lawful possession of a Schedule V
40 substance.

41 5. The department of health and senior services may,
42 by regulation, waive the requirement for registration of
43 certain manufacturers, distributors, or dispensers if it
44 finds it consistent with the public health and safety.

45 6. A separate registration shall be required at each
46 principal place of business or professional practice where
47 the applicant manufactures, distributes, or dispenses
48 controlled substances. **A hospital may obtain a separate**
49 **registration for each outpatient facility owned or operated**
50 **by the hospital in which behavioral health or substance**
51 **abuse services are delivered. Such outpatient facility may**
52 **distribute or dispense drugs to the extent allowed under a**
53 **hospital registration.**

54 7. The department of health and senior services is
55 authorized to inspect the establishment of a registrant or
56 applicant in accordance with the provisions of this chapter.

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

11 2. An advanced practice registered nurse, as defined
12 in section 335.016, but not a certified registered nurse
13 anesthetist as defined in subdivision (8) of section
14 335.016, who holds a certificate of controlled substance
15 prescriptive authority from the board of nursing under
16 section 335.019 and who is delegated the authority to
17 prescribe controlled substances under a collaborative
18 practice arrangement under section 334.104 may prescribe any
19 controlled substances listed in Schedules III, IV, and V of
20 section 195.017, and may have restricted authority in

Schedule II. Prescriptions for Schedule II medications prescribed by an advanced practice registered nurse who has a certificate of controlled substance prescriptive authority are restricted to only those medications containing hydrocodone and Schedule II controlled substances for hospice patients pursuant to the provisions of section 334.104. However, no such certified advanced practice registered nurse shall prescribe controlled substance for his or her own self or family. Schedule III narcotic controlled substance and Schedule II - hydrocodone prescriptions shall be limited to a one hundred twenty-hour supply without refill.

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

4. A practitioner shall not accept any portion of a controlled substance unused by a patient, for any reason, if such practitioner did not originally dispense the drug, except:

(1) When the controlled substance is delivered to the practitioner to administer to the patient for whom the medication is prescribed [as authorized by federal law]. Practitioners shall maintain records and secure the medication as required by this chapter and regulations promulgated pursuant to this chapter; or

(2) As provided in section 195.265.

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

334.031. 1. Candidates for licenses as physicians and
surgeons shall furnish [satisfactory evidence of their good
moral character, and their preliminary qualifications, to
wit: a certificate of graduation from an accredited high
school or its equivalent, and satisfactory evidence of
completion of preprofessional education consisting of a
minimum of sixty semester hours of college credits in
acceptable subjects leading towards the degree of bachelor
of arts or bachelor of science from an accredited college or
university. They shall also furnish satisfactory evidence
of having attended throughout at least four terms of thirty-
two weeks of actual instructions in each term and of having
received a diploma from some reputable medical college or
osteopathic college that enforces requirements of four terms
of thirty-two weeks for actual instruction in each term,
including, in addition to class work, such experience in
operative and hospital work during the last two years of
instruction as is required by the American Medical
Association and the American Osteopathic Association before
the college is approved and accredited as reputable. Any
medical college approved and accredited as reputable by the
American Medical Association or the Liaison Committee on
Medical Education and any osteopathic college approved and
accredited as reputable by the American Osteopathic
Association is deemed to have complied with the requirements
of this subsection]:

(1) Evidence of good moral character by submitting to
a criminal background check as provided in section 43.540;

(2) A diploma and academic transcripts from a school
accredited by the Liaison Committee on Medical Education,
the Commission on Osteopathic College Accreditation, a
similar accrediting agency, or some reputable medical

33 college or osteopathic college; or a valid certificate from
34 the Educational Commission for Foreign Medical Graduates
35 (ECFMG); and

36 (3) A certificate demonstrating that the applicant has
37 satisfied the requirements of section 334.035. An applicant
38 who holds a valid certificate issued by the ECFMG shall
39 submit satisfactory evidence of successful completion of two
40 years of such training. Except as provided in subsection 3
41 of this section, the board shall not require applicants to
42 provide information in addition to what the applicant is
43 required to furnish by this subsection.

44 2. In determining the qualifications necessary for
45 licensure as a qualified physician and surgeon, the board,
46 by rule and regulation, may accept the certificate of the
47 National Board of Medical Examiners of the United States,
48 chartered pursuant to the laws of the District of Columbia,
49 of the National Board of Examiners for Osteopathic
50 Physicians and Surgeons chartered pursuant to the laws of
51 the state of Indiana, or of the Licentiate of the Medical
52 Counsel of Canada (LMCC) in lieu of and as equivalent to its
53 own professional examination. Every applicant for a license
54 on the basis of such certificate, upon making application
55 showing necessary qualifications as provided in subsection 1
56 of this section, shall be required to pay the same fee
57 required of applicants to take the examination before the
58 board.

59 3. The board may require applicants to list all
60 licenses to practice as a physician currently or previously
61 held in any other state, territory, or country and to
62 disclose any past or pending investigations, discipline, or
63 sanctions against each such license.

64 4. In addition to the criminal background screening
65 required by this section, the board may obtain a report on
66 the applicant from the National Practitioner Data Bank or
67 the Federation of State Medical Boards.

 334.035. 1. For purposes of this section, the
2 following terms mean:

3 (1) "ACGME", the Accreditation Council for Graduate
4 Medical Education;

5 (2) "Applicant", an applicant for a permanent license
6 as a physician and surgeon;

7 (3) "Hospital", the same meaning given to the term in
8 section 197.020.

9 2. Except as otherwise provided in section 334.036,
10 every applicant [for a permanent license as a physician and
11 surgeon] shall provide the board with satisfactory evidence
12 of having successfully completed such postgraduate training
13 in hospitals or medical or osteopathic colleges as the board
14 may prescribe by rule.

15 3. Any applicant who has completed unaccredited
16 postgraduate training in a medical subspecialty for which no
17 program accredited by ACGME exists shall be deemed to have
18 satisfactorily completed the training requirements of 20 CSR
19 2150-2.004(2) or any successor regulation if such
20 unaccredited postgraduate training occurred in a teaching
21 hospital accredited by ACGME. The training period shall be
22 equal to or exceed an accredited postgraduate training
23 program.

24 4. The board shall waive the training requirements of
25 20 CSR 2150-2.004(2) or any successor regulation for any
26 applicant who is licensed as a physician in good standing in
27 another state and has been in good standing more than three
28 years.

338.165. 1. As used in this section, the following
terms mean:

(1) "Board", the Missouri board of pharmacy;

(2) "Hospital", a hospital as defined in section
197.020;

(3) "Hospital clinic or facility", a clinic or
facility under the common control, management, or ownership
of the same hospital or hospital system;

(4) "Medical staff committee", the committee or other
body of a hospital or hospital system responsible for
formulating policies regarding pharmacy services and
medication management;

(5) "Medication order", an order for a legend drug or
device that is:

(a) Authorized or issued by an authorized prescriber
acting within the scope of his or her professional practice
or pursuant to a protocol or standing order approved by the
medical staff committee; and

(b) To be distributed or administered to the patient
by a health care practitioner or lawfully authorized
designee at a hospital or a hospital clinic or facility;

(6) "Patient", an individual receiving medical
diagnosis, treatment or care at a hospital or a hospital
clinic or facility.

2. The department of health and senior services shall
have sole authority and responsibility for the inspection
and licensure of hospitals as provided by chapter 197
including, but not limited to all parts, services,
functions, support functions and activities which contribute
directly or indirectly to patient care of any kind
whatsoever. However, the board may inspect a class B
pharmacy or any portion thereof that is not under the

33 inspection authority vested in the department of health and
34 senior services by chapter 197 to determine compliance with
35 this chapter or the rules of the board. This section shall
36 not be construed to bar the board from conducting an
37 investigation pursuant to a public or governmental complaint
38 to determine compliance by an individual licensee or
39 registrant of the board with any applicable provisions of
40 this chapter or the rules of the board.

41 3. The department of health and senior services shall
42 have **the sole** authority to promulgate rules **governing**
43 **pharmacy services in hospitals, but may promulgate rules** in
44 conjunction with the board governing medication distribution
45 and the provision of medication therapy services, **as**
46 **described in section 338.010**, by a pharmacist at or within a
47 hospital. [Rules may include, but are not limited to,
48 medication management, preparation, compounding,
49 administration, storage, distribution, packaging and
50 labeling. Until such rules are jointly promulgated,
51 hospitals shall comply with all applicable state law and
52 department of health and senior services rules governing
53 pharmacy services and medication management in hospitals.]

54 **The board shall have the sole authority to promulgate rules**
55 **governing inspection and licensure of class B pharmacies.**

56 The rulemaking authority granted herein to the department of
57 health and senior services shall not include the dispensing
58 of medication by prescription.

59 4. All pharmacists providing medication therapy
60 services shall obtain a certificate of medication
61 therapeutic plan authority as provided by rule of the
62 board. Medication therapy services may be provided by a
63 pharmacist for patients of a hospital pursuant to a
64 protocol with a physician as required by section 338.010 or

65 pursuant to a protocol approved by the medical staff
66 committee. However, the medical staff protocol shall
67 include a process whereby an exemption to the protocol for a
68 patient may be granted for clinical efficacy should the
69 patient's physician make such request. The medical staff
70 protocol shall also include an appeals process to request a
71 change in a specific protocol based on medical evidence
72 presented by a physician on staff.

73 5. Medication may be dispensed by a class B hospital
74 pharmacy pursuant to a prescription or a medication order.

75 6. A drug distributor license shall not be required to
76 transfer medication from a class B hospital pharmacy to a
77 hospital clinic or facility for patient care or treatment.

78 7. Medication dispensed by a class A pharmacy located
79 in a hospital to a hospital patient for use or
80 administration outside of the hospital under a medical staff-
81 approved protocol for medication therapy shall be dispensed
82 only by a prescription order for medication therapy from an
83 individual physician for a specific patient.

84 8. Medication dispensed by a hospital to a hospital
85 patient for use or administration outside of the hospital
86 shall be labeled as provided by rules jointly promulgated by
87 the department of health and senior services and the board
88 including medication distributed for administration by or
89 under the supervision of a health care practitioner at a
90 hospital clinic or facility.

91 9. This section shall not be construed to preempt any
92 law or rule governing controlled substances.

93 10. Any rule, as that term is defined in section
94 536.010, that is created under the authority delegated in
95 this section shall only become effective if it complies with
96 and is subject to all of the provisions of chapter 536 and,

if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2014, shall be invalid and void.

11. The board shall appoint an advisory committee to review and make recommendations to the board on the merit of all rules and regulations to be jointly promulgated by the board and the department of health and senior services pursuant to the joint rulemaking authority granted by this section. The advisory committee shall consist of:

(1) Two representatives designated by the Missouri Hospital Association, one of whom shall be a pharmacist;

(2) One pharmacist designated by the Missouri Society of Health System Pharmacists;

(3) One pharmacist designated by the Missouri Pharmacy Association;

(4) One pharmacist designated by the department of health and senior services from a hospital with a licensed bed count that does not exceed fifty beds or from a critical access hospital as defined by the department of social services for purposes of MO HealthNet reimbursement;

(5) One pharmacist designated by the department of health and senior services from a hospital with a licensed bed count that exceeds two hundred beds; and

(6) One pharmacist designated by the board with experience in the provision of hospital pharmacy services.

12. Nothing in this section shall be construed to limit the authority of a licensed health care provider to

128 prescribe, administer, or dispense medications and
129 treatments within the scope of their professional practice.

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