

SECOND REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 878

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR FITZWATER.

5598S.05P

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 338.010 and 338.012, RSMo, and to enact in lieu thereof five new sections relating to the duties of a pharmacist.

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

Section A. Sections 338.010 and 338.012, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be
3 known as sections 338.010, 338.012, 338.206, 338.208, and
4 338.312, to read as follows:

338.010. 1. The "practice of pharmacy" includes:

2 (1) The interpretation, implementation, and evaluation
3 of medical prescription orders, including any legend drugs
4 under 21 U.S.C. Section 353, and the receipt, transmission,
5 or handling of such orders or facilitating the dispensing of
6 such orders;

7 (2) The designing, initiating, implementing, and
8 monitoring of a medication therapeutic plan in accordance
9 with the provisions of this section;

10 (3) The compounding, dispensing, labeling, and
11 administration of drugs and devices pursuant to medical
12 prescription orders;

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

13 (4) The ordering and administration of vaccines
14 approved or authorized by the U.S. Food and Drug
15 Administration, **as of January 1, 2026, or thereafter,**
16 excluding vaccines for cholera, monkeypox, Japanese
17 encephalitis, typhoid, rabies, yellow fever, tick-borne
18 encephalitis, anthrax, tuberculosis, dengue, Hib, polio,
19 rotavirus, smallpox, [and any vaccine approved after January
20 1, 2023] **or any vaccine that is not jointly included by**
21 **joint rules promulgated by the board of pharmacy and the**
22 **state board of registration for the healing arts,** to persons
23 at least seven years of age or the age recommended by the
24 Centers for Disease Control and Prevention, whichever is
25 older, pursuant to joint promulgation of rules established
26 by the board of pharmacy and the state board of registration
27 for the healing arts unless rules are established under a
28 state of emergency as described in section 44.100;

29 (5) The participation in drug selection according to
30 state law and participation in drug utilization reviews;

31 (6) The proper and safe storage of drugs and devices
32 and the maintenance of proper records thereof;

33 (7) Consultation with patients and other health care
34 practitioners, and veterinarians and their clients about
35 legend drugs, about the safe and effective use of drugs and
36 devices;

37 (8) The prescribing and dispensing of any nicotine
38 replacement therapy product under section 338.665;

39 (9) The dispensing of HIV postexposure prophylaxis
40 pursuant to section 338.730; and

41 (10) The offering or performing of those acts,
42 services, operations, or transactions necessary in the
43 conduct, operation, management and control of a pharmacy.

44 2. No person shall engage in the practice of pharmacy
45 unless he or she is licensed under the provisions of this
46 chapter.

47 3. This chapter shall not be construed to prohibit the
48 use of auxiliary personnel under the direct supervision of a
49 pharmacist from assisting the pharmacist in any of his or
50 her duties. This assistance in no way is intended to
51 relieve the pharmacist from his or her responsibilities for
52 compliance with this chapter and he or she will be
53 responsible for the actions of the auxiliary personnel
54 acting in his or her assistance.

55 4. This chapter shall not be construed to prohibit or
56 interfere with any legally registered practitioner of
57 medicine, dentistry, or podiatry, or veterinary medicine
58 only for use in animals, or the practice of optometry in
59 accordance with and as provided in sections 195.070 and
60 336.220 in the compounding, administering, prescribing, or
61 dispensing of his or her own prescriptions.

62 5. A pharmacist with a certificate of medication
63 therapeutic plan authority may provide medication therapy
64 services pursuant to a written protocol from a physician
65 licensed under chapter 334 to patients who have established
66 a physician-patient relationship, as described in
67 subdivision (1) of subsection 1 of section 191.1146, with
68 the protocol physician. The written protocol authorized by
69 this section shall come only from the physician and shall
70 not come from a nurse engaged in a collaborative practice
71 arrangement under section 334.104, or from a physician
72 assistant engaged in a collaborative practice arrangement
73 under section 334.735.

74 6. Nothing in this section shall be construed as to
75 prevent any person, firm or corporation from owning a

76 pharmacy regulated by sections 338.210 to 338.315, provided
77 that a licensed pharmacist is in charge of such pharmacy.

78 7. Nothing in this section shall be construed to apply
79 to or interfere with the sale of nonprescription drugs and
80 the ordinary household remedies and such drugs or medicines
81 as are normally sold by those engaged in the sale of general
82 merchandise.

83 8. No health carrier as defined in chapter 376 shall
84 require any physician with which they contract to enter into
85 a written protocol with a pharmacist for medication
86 therapeutic services.

87 9. This section shall not be construed to allow a
88 pharmacist to diagnose or independently prescribe
89 pharmaceuticals.

90 10. The state board of registration for the healing
91 arts, under section 334.125, and the state board of
92 pharmacy, under section 338.140, shall jointly promulgate
93 rules regulating the use of protocols for medication therapy
94 services. Such rules shall require protocols to include
95 provisions allowing for timely communication between the
96 pharmacist and the protocol physician or similar body
97 authorized by this section, and any other patient protection
98 provisions deemed appropriate by both boards. In order to
99 take effect, such rules shall be approved by a majority vote
100 of a quorum of each board. Neither board shall separately
101 promulgate rules regulating the use of protocols for
102 medication therapy services. Any rule or portion of a rule,
103 as that term is defined in section 536.010, that is created
104 under the authority delegated in this section shall become
105 effective only if it complies with and is subject to all of
106 the provisions of chapter 536 and, if applicable, section
107 536.028. This section and chapter 536 are nonseverable and

108 if any of the powers vested with the general assembly
109 pursuant to chapter 536 to review, to delay the effective
110 date, or to disapprove and annul a rule are subsequently
111 held unconstitutional, then the grant of rulemaking
112 authority and any rule proposed or adopted after August 28,
113 2007, shall be invalid and void.

114 11. The state board of pharmacy may grant a
115 certificate of medication therapeutic plan authority to a
116 licensed pharmacist who submits proof of successful
117 completion of a board-approved course of academic clinical
118 study beyond a bachelor of science in pharmacy, including
119 but not limited to clinical assessment skills, from a
120 nationally accredited college or university, or a
121 certification of equivalence issued by a nationally
122 recognized professional organization and approved by the
123 board of pharmacy.

124 12. Any pharmacist who has received a certificate of
125 medication therapeutic plan authority may engage in the
126 designing, initiating, implementing, and monitoring of a
127 medication therapeutic plan as defined by a written protocol
128 from a physician that may be specific to each patient for
129 care by a pharmacist.

130 13. Nothing in this section shall be construed to
131 allow a pharmacist to make a therapeutic substitution of a
132 pharmaceutical prescribed by a physician unless authorized
133 by the written protocol or the physician's prescription
134 order.

135 14. "Veterinarian", "doctor of veterinary medicine",
136 "practitioner of veterinary medicine", "DVM", "VMD", "BVSe",
137 "BVMS", "BSe (Vet Science)", "VMB", "MRCVS", or an
138 equivalent title means a person who has received a doctor's
139 degree in veterinary medicine from an accredited school of

140 veterinary medicine or holds an Educational Commission for
141 Foreign Veterinary Graduates (EDFVG) certificate issued by
142 the American Veterinary Medical Association (AVMA).

143 15. In addition to other requirements established by
144 the joint promulgation of rules by the board of pharmacy and
145 the state board of registration for the healing arts:

146 (1) A pharmacist shall administer vaccines by protocol
147 in accordance with treatment guidelines established by the
148 Centers for Disease Control and Prevention (CDC);

149 (2) A pharmacist who is administering a vaccine shall
150 request a patient to remain in the pharmacy a safe amount of
151 time after administering the vaccine to observe any adverse
152 reactions. Such pharmacist shall have adopted emergency
153 treatment protocols.

154 16. In addition to other requirements by the board, a
155 pharmacist shall receive additional training as required by
156 the board and evidenced by receiving a certificate from the
157 board upon completion, and shall display the certification
158 in his or her pharmacy where vaccines are delivered.

159 17. A pharmacist shall inform the patient that the
160 administration of a vaccine will be entered into the
161 ShowMeVax system, as administered by the department of
162 health and senior services. The patient shall attest to the
163 inclusion of such information in the system by signing a
164 form provided by the pharmacist. If the patient indicates
165 that he or she does not want such information entered into
166 the ShowMeVax system, the pharmacist shall provide a written
167 report within fourteen days of administration of a vaccine
168 to the patient's health care provider, if provided by the
169 patient, containing:

170 (1) The identity of the patient;

171 (2) The identity of the vaccine or vaccines
172 administered;

173 (3) The route of administration;

174 (4) The anatomic site of the administration;

175 (5) The dose administered; and

176 (6) The date of administration.

177 18. A pharmacist licensed under this chapter may order
178 and administer vaccines approved or authorized by the U.S.
179 Food and Drug Administration to address a public health
180 need, as lawfully authorized by the state or federal
181 government, or a department or agency thereof, during a
182 state or federally declared public health emergency.

338.012. 1. A pharmacist with a certificate of
2 medication therapeutic plan authority may provide influenza,
3 group A streptococcus, and COVID-19 medication therapy
4 services pursuant to [a statewide standing order issued by
5 the director or chief medical officer of the department of
6 health and senior services if that person is a licensed
7 physician, or a licensed physician designated by the
8 department of health and senior services] **rules established
9 by the board of pharmacy and the state board of registration
10 for the healing arts, as described in this section.**

11 2. **This section shall not be construed to allow a
12 pharmacist to diagnose or independently prescribe
13 pharmaceuticals.**

14 3. The state board of registration for the healing
15 arts, pursuant to section 334.125, and the state board of
16 pharmacy, pursuant to section 338.140, shall jointly
17 promulgate rules to implement the provisions of this
18 section. Any rule or portion of a rule, as that term is
19 defined in section 536.010, that is created under the
20 authority delegated in this section shall become effective

21 only if it complies with and is subject to all of the
22 provisions of chapter 536 and, if applicable, section
23 536.028. This section and chapter 536 are nonseverable and
24 if any of the powers vested with the general assembly
25 pursuant to chapter 536 to review, to delay the effective
26 date, or to disapprove and annul a rule are subsequently
27 held unconstitutional, then the grant of rulemaking
28 authority and any rule proposed or adopted after August 28,
29 2023, shall be invalid and void.

338.206. 1. As used in this section, the term
2 "medical device" shall mean equipment that is furnished by a
3 supplier or a home health agency and meets the following
4 conditions:

5 (1) Is a device classified by the United States Food
6 and Drug Administration as a Class I or Class II under 21
7 U.S.C. Section 360 and its implementing regulations under 21
8 CFR Parts 860 to 892;

9 (2) Is primarily and customarily used to serve a
10 medical purpose;

11 (3) Generally is not useful to an individual in the
12 absence of an illness or injury; and

13 (4) Is appropriate for use in the home.

14 2. Notwithstanding any provision of this chapter to
15 the contrary, pharmacists may prescribe any medical devices
16 authorized by rule promulgated jointly by the state board of
17 registration for the healing arts and the board of pharmacy
18 in accordance with subsection 3 of this section.

19 3. The state board of registration for the healing
20 arts, pursuant to section 334.125, and the board of
21 pharmacy, pursuant to section 338.140, shall jointly
22 promulgate rules to implement the provisions of this

23 section. Such rules shall be written and effective within
24 six months of the effective date of this act.

25 4. Any rule or portion of a rule, as that term is
26 defined in section 536.010, that is created under the
27 authority delegated in this section shall become effective
28 only if it complies with and is subject to all of the
29 provisions of chapter 536 and, if applicable, section
30 536.028. This section and chapter 536 are nonseverable and
31 if any of the powers vested with the general assembly
32 pursuant to chapter 536 to review, to delay the effective
33 date, or to disapprove and annul a rule are subsequently
34 held unconstitutional, then the grant of rulemaking
35 authority and any rule proposed or adopted after August 28,
36 2026, shall be invalid and void.

338.208. Notwithstanding any other provision of law to
2 the contrary, a pharmacist may dispense ivermectin and
3 hydroxychloroquine to a person, without requiring a
4 prescription order from a licensed health care practitioner,
5 upon the approval of a warning label for the use and
6 indication in accordance with any written, standardized
7 procedures or protocols for the pharmacist issued by the
8 board of pharmacy, including, if required, providing the
9 person with instructions on the proper use of ivermectin and
10 hydroxychloroquine.

338.312. 1. As used in this section, unless the
2 context requires otherwise, the following terms mean:

3 (1) "Declared state disaster or emergency", a disaster
4 or emergency event for which a governor's state of emergency
5 proclamation has been issued or that the President of the
6 United States has declared to be a major disaster or
7 emergency;

8 (2) "Disaster period", the period of time that begins
9 ten days before a governor's proclamation of a state of
10 emergency or the declaration by the President of the United
11 States of a major disaster or emergency, whichever occurs
12 first, and extending for a period of sixty calendar days
13 following the end of the period specified in the
14 proclamation or declaration or sixty calendar days from the
15 proclamation or declaration if no end is provided. The
16 governor may extend the disaster period as warranted;

17 (3) "Nonprofit pharmacy", any pharmacy licensed in
18 this state that operates as a charitable organization under
19 Section 501(c)(3) of the Internal Revenue Code of 1986, as
20 amended.

21 2. Notwithstanding any provision of law to the
22 contrary, the board of pharmacy shall have the authority to
23 waive compliance with any Missouri rules and regulations for
24 pharmacies licensed in this state when such nonprofit
25 pharmacy is dispensing, shipping, or delivering prescription
26 drugs into another state or United States territory that is
27 experiencing a declared state disaster or emergency,
28 provided that:

29 (1) The nonprofit pharmacy is a licensed pharmacy in
30 good standing under this chapter and is authorized to ship
31 prescription drugs into the state or territory in question;

32 (2) The nonprofit pharmacy is responding to an active
33 declared state disaster or emergency;

34 (3) The nonprofit pharmacy complies with all emergency
35 rules and regulations for pharmacies and nonprofit
36 pharmacies established by the state or territory for the
37 duration of the disaster period;

38 (4) The nonprofit pharmacy complies with all
39 applicable federal laws and regulations; and

40 (5) The waiver applies only to prescription drugs
41 dispensed, shipped, or delivered to residents or health care
42 facilities located within the geographic area specified in
43 the declared state disaster or emergency.

44 3. The board of pharmacy may promulgate rules to
45 implement the provisions of this section. Any rule or
46 portion of a rule, as that term is defined in section
47 536.010, that is created under the authority delegated in
48 this section shall become effective only if it complies with
49 and is subject to all of the provisions of chapter 536 and,
50 if applicable, section 536.028. This section and chapter
51 536 are nonseverable and if any of the powers vested with
52 the general assembly pursuant to chapter 536 to review, to
53 delay the effective date, or to disapprove and annul a rule
54 are subsequently held unconstitutional, then the grant of
55 rulemaking authority and any rule proposed or adopted after
56 August 28, 2026, shall be invalid and void.

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