

SECOND REGULAR SESSION

HOUSE BILL NO. 1410

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SOLON.

4028H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 338.010, RSMo, and to enact in lieu thereof two new sections relating to contraceptives.

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

Section A. Section 338.010, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 338.010 and 338.720, to read as follows:

338.010. 1. The "practice of pharmacy" means the interpretation, implementation, and evaluation of medical prescription orders, including any legend drugs under 21 U.S.C. Section 353; **the** receipt, transmission, or handling of such orders or facilitating the dispensing of such orders; the designing, initiating, implementing, and monitoring of a medication therapeutic plan as defined by the prescription order so long as the prescription order is specific to each patient for care by a pharmacist; the compounding, dispensing, labeling, and administration of drugs and devices pursuant to medical prescription orders and administration of viral influenza, pneumonia, shingles, hepatitis A, hepatitis B, diphtheria, tetanus, pertussis, and meningitis vaccines by written protocol authorized by a physician for persons at least seven years of age or the age recommended by the Centers for Disease Control and Prevention, whichever is higher, or the administration of pneumonia, shingles, hepatitis A, hepatitis B, diphtheria, tetanus, pertussis, meningitis, and viral influenza vaccines by written protocol authorized by a physician for a specific patient as authorized by rule; the participation in drug selection according to state law and participation in drug utilization reviews; the proper and safe storage of drugs and devices and the maintenance of proper records thereof; consultation with patients and other health care practitioners, and veterinarians and their clients about legend drugs, about the safe and effective use of drugs and devices; the prescribing and dispensing of any nicotine replacement therapy

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 product under section 338.665; **the dispensing of self-administered oral hormonal**
19 **contraceptives under section 338.720**; and the offering or performing of those acts, services,
20 operations, or transactions necessary in the conduct, operation, management and control of a
21 pharmacy. No person shall engage in the practice of pharmacy unless he or she is licensed under
22 the provisions of this chapter. This chapter shall not be construed to prohibit the use of auxiliary
23 personnel under the direct supervision of a pharmacist from assisting the pharmacist in any of
24 his or her duties. This assistance in no way is intended to relieve the pharmacist from his or her
25 responsibilities for compliance with this chapter and he or she will be responsible for the actions
26 of the auxiliary personnel acting in his or her assistance. This chapter shall also not be construed
27 to prohibit or interfere with any legally registered practitioner of medicine, dentistry, or podiatry,
28 or veterinary medicine only for use in animals, or the practice of optometry in accordance with
29 and as provided in sections 195.070 and 336.220 in the compounding, administering,
30 prescribing, or dispensing of his or her own prescriptions.

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

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

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

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

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

47 7. The state board of registration for the healing arts, under section [~~334.125~~] **334.120**,
48 and the state board of pharmacy, under [~~section 338.140~~] **chapter 338**, shall jointly promulgate
49 rules regulating the use of protocols for prescription orders for medication therapy services and
50 administration of viral influenza vaccines. Such rules shall require protocols to include
51 provisions allowing for timely communication between the pharmacist and the referring
52 physician, and any other patient protection provisions deemed appropriate by both boards. In
53 order to take effect, such rules shall be approved by a majority vote of a quorum of each board.

54 Neither board shall separately promulgate rules regulating the use of protocols for prescription
55 orders for medication therapy services and administration of viral influenza vaccines. Any rule
56 or portion of a rule, as that term is defined in section 536.010, that is created under the authority
57 delegated in this section shall become effective only if it complies with and is subject to all of
58 the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536
59 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter
60 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held
61 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after
62 August 28, 2007, shall be invalid and void.

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

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

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

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

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

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

86 (2) A pharmacist who is administering a vaccine shall request a patient to remain in the
87 pharmacy a safe amount of time after administering the vaccine to observe any adverse reactions.

88 Such pharmacist shall have adopted emergency treatment protocols;

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

93 13. A pharmacist shall inform the patient that the administration of the vaccine will be
94 entered into the ShowMeVax system, as administered by the department of health and senior
95 services. The patient shall attest to the inclusion of such information in the system by signing
96 a form provided by the pharmacist. If the patient indicates that he or she does not want such
97 information entered into the ShowMeVax system, the pharmacist shall provide a written report
98 within fourteen days of administration of a vaccine to the patient's primary health care provider,
99 if provided by the patient, containing:

- 100 (1) The identity of the patient;
101 (2) The identity of the vaccine or vaccines administered;
102 (3) The route of administration;
103 (4) The anatomic site of the administration;
104 (5) The dose administered; and
105 (6) The date of administration.

**338.720. 1. For purposes of this section, "self-administered oral hormonal
2 contraceptive" shall mean a drug composed of a combination of hormones that is approved
3 by the Food and Drug Administration to prevent pregnancy and that the patient to whom
4 the drug is prescribed takes orally.**

**5 2. A pharmacist may dispense self-administered oral hormonal contraceptives to
6 a person who is eighteen years of age or older under a prescription order for medication
7 therapy services as described in section 338.010. A prescription order for a self-
8 administered oral hormonal contraceptive shall have no expiration date.**

**9 3. The board of pharmacy, under chapter 338, and the state board of registration
10 for the healing arts, under section 334.120, shall jointly promulgate rules regulating the use
11 of protocols for prescription orders for self-administered oral hormonal contraceptives.
12 Any rule or portion of a rule, as that term is defined in section 536.010, that is created
13 under the authority delegated in this section shall become effective only if it complies with
14 and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
15 This section and chapter 536 are nonseverable, and if any of the powers vested with the
16 general assembly pursuant to chapter 536 to review, to delay the effective date, or to
17 disapprove and annul a rule are subsequently held unconstitutional, then the grant of
18 rulemaking authority and any rule proposed or adopted after August 28, 2020, shall be
19 invalid and void.**

- 20 **4. The rules adopted under this section shall require a pharmacist to:**
- 21 **(1) Complete a training program approved by the board of pharmacy that is**
22 **related to dispensing self-administered oral hormonal contraceptives under this section;**
- 23 **(2) Provide a self-screening risk assessment tool that the patient shall use prior to**
24 **the pharmacist's dispensing self-administered oral hormonal contraceptive under this**
25 **section;**
- 26 **(3) At least once every twelve months, refer the patient to the patient's primary care**
27 **practitioner, women's health care practitioner, or physician with whom the pharmacist has**
28 **a prescription order, before dispensing the self-administered oral hormonal contraceptive**
29 **to the patient;**
- 30 **(4) Provide the patient with a written record of the self-administered oral hormonal**
31 **contraceptive dispensed and advise the patient to consult with a primary care practitioner**
32 **or women's health care practitioner; and**
- 33 **(5) Dispense the self-administered oral hormonal contraceptive to the patient as**
34 **soon as practicable.**
- 35 **5. All state and federal laws governing insurance coverage of contraceptive drugs,**
36 **devices, products, and services shall apply to self-administered oral hormonal**
37 **contraceptives dispensed by a pharmacist under this section.**
- 38 **6. The provisions of this section shall terminate upon the enactment of any laws**
39 **allowing the provision of oral hormonal contraceptives from a pharmacist without a**
40 **prescription or prescription order.**
- 41 **7. Nothing in this section shall be construed to allow a pharmacist to make a**
42 **therapeutic substitution of a self-administered oral hormonal contraceptive prescribed by**
43 **a physician unless authorized by the written protocol or the physician's written**
44 **prescription order.**

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