

FIRST REGULAR SESSION

HOUSE BILL NO. 869

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LOVASCO.

1870H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 579.015, RSMo, and to enact in lieu thereof two new sections relating to natural medicine.

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

Section A. Section 579.015, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 191.478 and 579.015, to read as follows:

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

- (1) "Caregiver", a person twenty-one years of age or older who assists in the eligible patient's medical use of natural medicine;**
- (2) "Department", the department of health and senior services;**
- (3) "Eligible patient", a person twenty-one years of age or older who has been diagnosed by a physician with a qualifying serious medical condition within the past twenty-four months and who has written documentation from the physician certifying the diagnosis;**
- (4) "Medical use", the acquisition, use, production, possession, delivery, transfer, or administration of natural medicine, or paraphernalia used to administer natural medicine by a caregiver or an eligible patient, for the benefit of an eligible patient;**
- (5) "Natural medicine", psilocybin or psilocyn, if derived from a plant or fungus;**
- (6) "Qualifying serious medical condition":**
 - (a) Treatment-resistant posttraumatic stress disorder;**
 - (b) Treatment-resistant depression;**
 - (c) Terminal illness; or**

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 **(d) Any other serious medical condition that has not responded positively or**
19 **significantly to treatment and that is approved by the department as described in**
20 **subsection 9 of this section;**

21 **(7) "Terminal illness", a disease that without life-sustaining procedures will,**
22 **within twenty-four months, result in death or a state of permanent unconsciousness**
23 **from which recovery is unlikely;**

24 **(8) "Treatment-resistant", the failure of a serious medical condition to respond**
25 **positively or significantly to treatment.**

26 **2. Natural medicine may be obtained by caregivers and eligible patients and**
27 **provided to eligible patients under this section.**

28 **3. This section shall not require a health care insurer to provide coverage for the**
29 **cost of natural medicine. A health care insurer may provide coverage for natural**
30 **medicine or for treatment or therapy that occurs in conjunction with the medical use of**
31 **a natural medicine.**

32 **4. This section shall not require the department of corrections to provide**
33 **coverage for the cost of any natural medicine.**

34 **5. The use or administration of natural medicine by or to an eligible patient shall**
35 **occur only at:**

36 **(1) A facility or office that provides health-related services;**

37 **(2) A facility providing hospice care required to be certificated under sections**
38 **197.250 to 197.280;**

39 **(3) A residential care facility, as defined in section 198.006; or**

40 **(4) A location that is approved by the department as described in subsection 9 of**
41 **this section.**

42 **6. Notwithstanding any other provision of law, a physician shall not be subject to**
43 **criminal or civil liability or sanction under the laws of this state for recommending**
44 **natural medicine to an eligible patient, and no state agency or regulatory board shall**
45 **revoke, fail to renew, or take any other action against a physician's license issued under**
46 **chapter 334 based solely on the physician's recommendation to an eligible patient**
47 **regarding treatment with natural medicine. Action by the state against a health care**
48 **provider's Medicare certification based solely on the health care provider's**
49 **recommendation that a patient have access to natural medicine is prohibited.**

50 **7. Notwithstanding any other provision of law, the holder of a professional or**
51 **occupational license, certification, or registration is not subject to professional discipline**
52 **or loss of a professional license or certification for providing advice or services related to**
53 **the medical use of natural medicine as allowed under this section.**

54 **8. The medical use of natural medicine by eligible patients and their caregivers is**
55 **allowed under state and local law in accordance with this section. Notwithstanding any**
56 **other provision of law, the medical use of natural medicine by an eligible patient or**
57 **caregiver in compliance with this section is not subject to criminal or civil liability under**
58 **the laws of this state.**

59 **9. (1) Any person may petition the department to add a serious medical**
60 **condition to the list as set forth in paragraph (d) of subdivision (6) of subsection 1 of this**
61 **section. The department shall consider a petition filed under this subdivision in the**
62 **manner required by rules adopted by the department. The rules shall include notice to**
63 **the public and a reasonable period for public comment on the petition. The department**
64 **shall grant a petition filed under this subdivision if the petitioner establishes that, based**
65 **on available evidence, natural medicine may benefit persons with the proposed serious**
66 **medical condition in a manner equal to or greater than the benefit of natural medicine**
67 **for those with qualifying serious medical conditions listed in paragraphs (a) to (c) of**
68 **subdivision (6) of subsection 1 of this section. Notwithstanding any other provision of**
69 **law, the department shall approve or deny a petition filed under this subdivision within**
70 **one hundred eighty days of its submission.**

71 **(2) Any person may petition the department to add locations to the list as set**
72 **forth in subdivision (4) of subsection 5 of this section. The department shall consider a**
73 **petition filed under this subdivision in the manner required by rules adopted by the**
74 **department. The rules shall include notice to the public and a reasonable period for**
75 **public comment on the petition. The department shall grant a petition filed under this**
76 **subdivision if the petitioner establishes that, based on available evidence, the benefit to**
77 **eligible patients of adding the proposed location outweighs the potential risks.**
78 **Notwithstanding any other provision of law, the department shall approve or deny a**
79 **petition filed under this subdivision within one hundred eighty days of its submission.**

80 **(3) Any rule or portion of a rule, as that term is defined in section 536.010, that is**
81 **created under the authority delegated in this section shall become effective only if it**
82 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
83 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**
84 **vested with the general assembly pursuant to chapter 536 to review, to delay the**
85 **effective date, or to disapprove and annul a rule are subsequently held unconstitutional,**
86 **then the grant of rulemaking authority and any rule proposed or adopted after August**
87 **28, 2023, shall be invalid and void.**

88 **10. Except in the case of gross negligence or willful misconduct, any person who**
89 **manufactures, imports, distributes, prescribes, dispenses, or administers natural**
90 **medicine to an eligible patient for medical use in accordance with this section shall**

91 not be liable in any action under state law for any loss, damage, or injury arising out of,
92 relating to, or resulting from:

93 (1) The design, development, clinical testing and investigation, manufacture,
94 labeling, distribution, sale, purchase, donation, dispensation, prescription,
95 administration, or use of the natural medicine; or

96 (2) The safety or effectiveness of the natural medicine.

97 11. (1) The department shall form an advisory committee to establish guidance
98 related to access to natural medicine, including delivery of services, community
99 outreach and education, first responder and law enforcement training, and options for
100 facilitated services, therapy, end-of-life care, and compassionate use.

101 (2) The advisory committee shall include persons with expertise in psychedelic
102 therapy, medicine and public health, drug policy, harm reduction, health equity, and
103 youth drug education; law enforcement officers and other first responders; and persons
104 who have experience with the traditional use of psychedelic substances.

105 (3) The advisory committee shall issue guidance related to all of the following
106 areas:

107 (a) Guidelines for best practices regarding use, effect, and risk reduction for
108 natural medicine including, but not limited to, public service announcements,
109 educational curricula, and appropriate training for first responders and
110 multiresponders, including law enforcement, emergency medical services, and fire
111 services;

112 (b) Guidelines for minimizing use-related risks, including information related to
113 appropriate use, harm reduction, and impacts of the use of natural medicine; and

114 (c) Guidelines for the responsible training and practice of caregivers, therapists,
115 and facilitators related to natural medicine.

116 12. Notwithstanding any other provision of law, if a natural medicine is removed
117 from Schedule I of the federal Controlled Substances Act, 21 U.S.C. Section 812 et seq.,
118 and placed on a schedule of the Controlled Substances Act other than Schedule I, the
119 term "eligible patient" under this section shall include any person twenty-one years of
120 age or older who has documentation from his or her physician that the person has not
121 been diagnosed with any specific contraindications for the use of natural medicine.

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

2 (1) "Allowable amount", not more than four grams of the active psychoactive
3 substance of natural medicine. The term "allowable amount" shall not include the
4 weight of any material of which the natural medicine is a part, including dried fungus or
5 plant material, or to which the substance is added, dissolved, held in solution, or

6 **suspended, or any ingredient or material combined with the natural medicine to**
7 **prepare topical or oral administrations, food, drink, or other products;**

8 **(2) "Natural medicine", psilocybin or psilocyn, if derived from a plant or fungus.**

9 **2.** A person commits the offense of possession of a controlled substance if he or she
10 knowingly possesses a controlled substance, except as authorized by this chapter or chapter
11 195.

12 ~~[2-]~~ **3.** The offense of possession of any controlled substance except:

13 **(1) Thirty-five grams or less of marijuana or any synthetic cannabinoid; or**

14 **(2) Any amount of natural medicine**

15

16 is a class D felony.

17 ~~[3-]~~ **4.** The offense of possession of:

18 **(1) More than ten grams but thirty-five grams or less of marijuana or any synthetic**
19 **cannabinoid; or**

20 **(2) More than an allowable amount of natural medicine**

21

22 is a class A misdemeanor; **except that, any such possession shall not be considered an**
23 **offense if the possession is in accordance with the provisions of section 191.478.**

24 ~~[4-]~~ **5.** The offense of possession of:

25 **(1) Not more than ten grams of marijuana or any synthetic cannabinoid; or**

26 **(2) Not more than an allowable amount of natural medicine**

27

28 is a class D misdemeanor; **except that, any such possession shall not be considered an**
29 **offense if the possession is in accordance with the provisions of section 191.478.** If the
30 defendant has previously been found guilty of any offense of the laws related to controlled
31 substances of this state, or of the United States, or any state, territory, or district, the offense is
32 a class A misdemeanor. Prior findings of guilt shall be pleaded and proven in the same
33 manner as required by section 558.021.

34 ~~[5-]~~ **6.** In any complaint, information, or indictment, and in any action or proceeding
35 brought for the enforcement of any provision of this chapter or chapter 195, it shall not be
36 necessary to include any exception, excuse, proviso, or exemption contained in this chapter or
37 chapter 195, and the burden of proof of any such exception, excuse, proviso or exemption
38 shall be upon the defendant.

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