SENATE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 41

AN ACT

To repeal section 338.010, RSMo, and to enact in lieu thereof two new sections relating to the administration of medications by pharmacists.

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Section A. Section 338.010, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 338.010 and 338.012, to read as follows:

338.010. 1. The "practice of pharmacy" **[**means**]** includes:

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

(2) 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**]** in accordance with the provisions of this section;

(3) 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**]**;

(4) The ordering and administration of vaccines approved or authorized by the U.S. Food and Drug Administration, excluding vaccines for cholera, monkeypox, Japanese encephalitis, typhoid, rabies, yellow fever, tick-borne encephalitis, anthrax, tuberculosis, dengue, Hib, polio, rotavirus, smallpox, and any vaccine approved after January 1, 2023, to persons at least seven years of age or the age recommended by the Centers for Disease Control and Prevention, whichever is older, pursuant to joint promulgation of rules established by the board of pharmacy and the state board of registration for the healing arts unless rules are established under a state of emergency as described in section 44.100;

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

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

(7) 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;

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

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

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

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

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

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

[2. Any pharmacist who accepts a prescription order for a medication therapeutic plan shall have a written protocol from the physician who refers the patient for medication therapy services.**]** 5. A pharmacist with a certificate of medication therapeutic plan authority may provide medication therapy services pursuant to a written protocol from a physician licensed under chapter 334 to patients who have established a physician-patient relationship, as described in subdivision (1) of subsection 1 of section 191.1146, with the protocol physician. The written protocol **[**and the prescription order for a medication therapeutic plan**]** authorized by this section shall come only from the physician **[**only,**]** and shall not come from a nurse engaged in a collaborative practice arrangement under section 334.104, or from a physician

assistant engaged in a collaborative practice arrangement under section 334.735.

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

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

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

[6.**]** 9. This section shall not be construed to allow a pharmacist to diagnose or independently prescribe pharmaceuticals.

[7.**]** 10. The state board of registration for the healing arts, under section 334.125, and the state board of pharmacy, under section 338.140, shall jointly promulgate rules regulating the use of protocols **[**for prescription orders**]** for medication therapy services **[**and administration of viral influenza vaccines**]**. Such rules shall require protocols to include provisions allowing for timely communication between the pharmacist and the **[**referring**]** protocol physician or similar body authorized by this section, and any other patient protection provisions deemed appropriate by both boards. In order to take effect, such rules shall be approved by a majority vote of a quorum of each board. Neither board shall separately promulgate rules regulating the use of protocols for **[**prescription orders for**]** medication therapy services **[**and administration of

viral influenza vaccines**]**. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with 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 pursuant to 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, 2007, shall be invalid and void.

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

[9.**]** 12. Any pharmacist who has received a certificate of medication therapeutic plan authority may engage in the designing, initiating, implementing, and monitoring of a medication therapeutic plan as defined by a **[**prescription order**]** written protocol from a physician that **[**is**]** may be specific to each patient for care by a pharmacist.

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

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

[12.**]** 15. In addition to other requirements established by the joint promulgation of rules by the board of pharmacy and the state board of registration for the healing arts:

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

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

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

[13.**]** 17. A pharmacist shall inform the patient that the administration of **[**the**]** a vaccine will be entered into the ShowMeVax system, as administered by the department of health and senior services. The patient shall attest to the inclusion of such information in the system by signing a form provided by the pharmacist. If the patient indicates

that he or she does not want such information entered into the ShowMeVax system, the pharmacist shall provide a written report within fourteen days of administration of a vaccine to the patient's health care provider, if provided by the patient, containing:

(1) The identity of the patient;

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

(3) The route of administration;

(4) The anatomic site of the administration;

(5) The dose administered; and

(6) The date of administration.

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

338.012. 1. A pharmacist with a certificate of medication therapeutic plan authority may provide influenza, group A streptococcus, and COVID-19 medication therapy services pursuant to a statewide standing order issued by the director or chief medical officer of the department of health and senior services if that person is a licensed physician, or a licensed physician designated by the department of health and senior services.

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

only if it complies with 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 pursuant to 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, 2023, shall be invalid and void.