

FIRST REGULAR SESSION

SENATE BILL NO. 551

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR ESLINGER.

2092S.01I

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 195.100 and 334.735, RSMo, and to enact in lieu thereof two new sections relating to prescription labeling requirements.

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

Section A. Sections 195.100 and 334.735, RSMo, are
2 repealed and two new sections enacted in lieu thereof, to be
3 known as sections 195.100 and 334.735, to read as follows:

195.100. 1. It shall be unlawful to distribute any
2 controlled substance in a commercial container unless such
3 container bears a label containing an identifying symbol for
4 such substance in accordance with federal laws.

5 2. It shall be unlawful for any manufacturer of any
6 controlled substance to distribute such substance unless the
7 labeling thereof conforms to the requirements of federal law
8 and contains the identifying symbol required in subsection 1
9 of this section.

10 3. The label of a controlled substance in Schedule II,
11 III or IV shall, when dispensed to or for a patient, contain
12 a clear, concise warning that it is a criminal offense to
13 transfer such narcotic or dangerous drug to any person other
14 than the patient.

15 4. Whenever a manufacturer sells or dispenses a
16 controlled substance and whenever a wholesaler sells or
17 dispenses a controlled substance in a package prepared by
18 him or her, the manufacturer or wholesaler shall securely

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

19 affix to each package in which that drug is contained a
20 label showing in legible English the name and address of the
21 vendor and the quantity, kind, and form of controlled
22 substance contained therein. No person except a pharmacist
23 for the purpose of filling a prescription under this
24 chapter, shall alter, deface, or remove any label so affixed.

25 5. Whenever a pharmacist or practitioner sells or
26 dispenses any controlled substance on a prescription issued
27 by a physician, physician assistant, dentist, podiatrist,
28 veterinarian, or advanced practice registered nurse, the
29 pharmacist or practitioner shall affix to the container in
30 which such drug is sold or dispensed a label showing his or
31 her own name and address of the pharmacy or practitioner for
32 whom he or she is lawfully acting; the name of the patient
33 or, if the patient is an animal, the name of the owner of
34 the animal and the species of the animal; the name of the
35 physician, physician assistant, dentist, podiatrist,
36 advanced practice registered nurse, or veterinarian by whom
37 the prescription was written; [the name of the collaborating
38 physician if the prescription is written by an advanced
39 practice registered nurse or a physician assistant,] and
40 such directions as may be stated on the prescription. No
41 person shall alter, deface, or remove any label so affixed.

334.735. 1. As used in sections 334.735 to 334.749,
2 the following terms mean:

3 (1) "Applicant", any individual who seeks to become
4 licensed as a physician assistant;

5 (2) "Certification" or "registration", a process by a
6 certifying entity that grants recognition to applicants
7 meeting predetermined qualifications specified by such
8 certifying entity;

9 (3) "Certifying entity", the nongovernmental agency or
10 association which certifies or registers individuals who
11 have completed academic and training requirements;

12 (4) "Collaborative practice arrangement", written
13 agreements, jointly agreed upon protocols, or standing
14 orders, all of which shall be in writing, for the delivery
15 of health care services;

16 (5) "Department", the department of commerce and
17 insurance or a designated agency thereof;

18 (6) "License", a document issued to an applicant by
19 the board acknowledging that the applicant is entitled to
20 practice as a physician assistant;

21 (7) "Physician assistant", a person who has graduated
22 from a physician assistant program accredited by the
23 Accreditation Review Commission on Education for the
24 Physician Assistant or its successor agency, prior to 2001,
25 or the Committee on Allied Health Education and
26 Accreditation or the Commission on Accreditation of Allied
27 Health Education Programs, who has passed the certifying
28 examination administered by the National Commission on
29 Certification of Physician Assistants and has active
30 certification by the National Commission on Certification of
31 Physician Assistants who provides health care services
32 delegated by a licensed physician. A person who has been
33 employed as a physician assistant for three years prior to
34 August 28, 1989, who has passed the National Commission on
35 Certification of Physician Assistants examination, and has
36 active certification of the National Commission on
37 Certification of Physician Assistants;

38 (8) "Recognition", the formal process of becoming a
39 certifying entity as required by the provisions of sections
40 334.735 to 334.749.

41 2. The scope of practice of a physician assistant
42 shall consist only of the following services and procedures:

- 43 (1) Taking patient histories;
44 (2) Performing physical examinations of a patient;
45 (3) Performing or assisting in the performance of
46 routine office laboratory and patient screening procedures;
47 (4) Performing routine therapeutic procedures;
48 (5) Recording diagnostic impressions and evaluating
49 situations calling for attention of a physician to institute
50 treatment procedures;
51 (6) Instructing and counseling patients regarding
52 mental and physical health using procedures reviewed and
53 approved by a collaborating physician;
54 (7) Assisting the supervising physician in
55 institutional settings, including reviewing of treatment
56 plans, ordering of tests and diagnostic laboratory and
57 radiological services, and ordering of therapies, using
58 procedures reviewed and approved by a licensed physician;
59 (8) Assisting in surgery; and
60 (9) Performing such other tasks not prohibited by law
61 under the collaborative practice arrangement with a licensed
62 physician as the physician assistant has been trained and is
63 proficient to perform.

64 3. Physician assistants shall not perform or prescribe
65 abortions.

66 4. Physician assistants shall not prescribe any drug,
67 medicine, device or therapy unless pursuant to a
68 collaborative practice arrangement in accordance with the
69 law, nor prescribe lenses, prisms or contact lenses for the
70 aid, relief or correction of vision or the measurement of
71 visual power or visual efficiency of the human eye, nor
72 administer or monitor general or regional block anesthesia

73 during diagnostic tests, surgery or obstetric procedures.
74 Prescribing of drugs, medications, devices or therapies by a
75 physician assistant shall be pursuant to a collaborative
76 practice arrangement which is specific to the clinical
77 conditions treated by the supervising physician and the
78 physician assistant shall be subject to the following:

79 (1) A physician assistant shall only prescribe
80 controlled substances in accordance with section 334.747;

81 (2) The types of drugs, medications, devices or
82 therapies prescribed by a physician assistant shall be
83 consistent with the scopes of practice of the physician
84 assistant and the collaborating physician;

85 (3) All prescriptions shall conform with state and
86 federal laws and regulations and shall include the name,
87 address and telephone number of the physician assistant [and
88 the supervising physician];

89 (4) A physician assistant, or advanced practice
90 registered nurse as defined in section 335.016 may request,
91 receive and sign for noncontrolled professional samples and
92 may distribute professional samples to patients; and

93 (5) A physician assistant shall not prescribe any
94 drugs, medicines, devices or therapies the collaborating
95 physician is not qualified or authorized to prescribe.

96 5. A physician assistant shall clearly identify
97 himself or herself as a physician assistant and shall not
98 use or permit to be used in the physician assistant's behalf
99 the terms "doctor", "Dr." or "doc" nor hold himself or
100 herself out in any way to be a physician or surgeon. No
101 physician assistant shall practice or attempt to practice
102 without physician collaboration or in any location where the
103 collaborating physician is not immediately available for
104 consultation, assistance and intervention, except as

otherwise provided in this section, and in an emergency situation, nor shall any physician assistant bill a patient independently or directly for any services or procedure by the physician assistant; except that, nothing in this subsection shall be construed to prohibit a physician assistant from enrolling with a third-party plan or the department of social services as a MO HealthNet or Medicaid provider while acting under a collaborative practice arrangement between the physician and physician assistant.

6. The licensing of physician assistants shall take place within processes established by the state board of registration for the healing arts through rule and regulation. The board of healing arts is authorized to establish rules pursuant to chapter 536 establishing licensing and renewal procedures, collaboration, collaborative practice arrangements, fees, and addressing such other matters as are necessary to protect the public and discipline the profession. An application for licensing may be denied or the license of a physician assistant may be suspended or revoked by the board in the same manner and for violation of the standards as set forth by section 334.100, or such other standards of conduct set by the board by rule or regulation. Persons licensed pursuant to the provisions of chapter 335 shall not be required to be licensed as physician assistants. All applicants for physician assistant licensure who complete a physician assistant training program after January 1, 2008, shall have a master's degree from a physician assistant program.

7. At all times the physician is responsible for the oversight of the activities of, and accepts responsibility for, health care services rendered by the physician assistant.

137 8. A physician may enter into collaborative practice
138 arrangements with physician assistants. Collaborative
139 practice arrangements, which shall be in writing, may
140 delegate to a physician assistant the authority to
141 prescribe, administer, or dispense drugs and provide
142 treatment which is within the skill, training, and
143 competence of the physician assistant. Collaborative
144 practice arrangements may delegate to a physician assistant,
145 as defined in section 334.735, the authority to administer,
146 dispense, or prescribe controlled substances listed in
147 Schedules III, IV, and V of section 195.017, and Schedule
148 II - hydrocodone. Schedule III narcotic controlled
149 substances and Schedule II - hydrocodone prescriptions shall
150 be limited to a one hundred twenty-hour supply without
151 refill. Such collaborative practice arrangements shall be
152 in the form of a written arrangement, jointly agreed-upon
153 protocols, or standing orders for the delivery of health
154 care services.

155 9. The written collaborative practice arrangement
156 shall contain at least the following provisions:

157 (1) Complete names, home and business addresses, zip
158 codes, and telephone numbers of the collaborating physician
159 and the physician assistant;

160 (2) A list of all other offices or locations, other
161 than those listed in subdivision (1) of this subsection,
162 where the collaborating physician has authorized the
163 physician assistant to prescribe;

164 (3) A requirement that there shall be posted at every
165 office where the physician assistant is authorized to
166 prescribe, in collaboration with a physician, a prominently
167 displayed disclosure statement informing patients that they

may be seen by a physician assistant and have the right to see the collaborating physician;

(4) All specialty or board certifications of the collaborating physician and all certifications of the physician assistant;

(5) The manner of collaboration between the collaborating physician and the physician assistant, including how the collaborating physician and the physician assistant will:

(a) Engage in collaborative practice consistent with each professional's skill, training, education, and competence;

(b) Maintain geographic proximity, as determined by the board of registration for the healing arts; and

(c) Provide coverage during absence, incapacity, infirmity, or emergency of the collaborating physician;

(6) A list of all other written collaborative practice arrangements of the collaborating physician and the physician assistant;

(7) The duration of the written practice arrangement between the collaborating physician and the physician assistant;

(8) A description of the time and manner of the collaborating physician's review of the physician assistant's delivery of health care services. The description shall include provisions that the physician assistant shall submit a minimum of ten percent of the charts documenting the physician assistant's delivery of health care services to the collaborating physician for review by the collaborating physician, or any other physician designated in the collaborative practice

199 arrangement, every fourteen days. Reviews may be conducted
200 electronically;

201 (9) The collaborating physician, or any other
202 physician designated in the collaborative practice
203 arrangement, shall review every fourteen days a minimum of
204 twenty percent of the charts in which the physician
205 assistant prescribes controlled substances. The charts
206 reviewed under this subdivision may be counted in the number
207 of charts required to be reviewed under subdivision (8) of
208 this subsection; and

209 (10) A statement that no collaboration requirements in
210 addition to the federal law shall be required for a
211 physician-physician assistant team working in a certified
212 community behavioral health clinic as defined by Pub.L. 113-
213 93, or a rural health clinic under the federal Rural Health
214 Services Act, Pub.L. 95-210, as amended, or a federally
215 qualified health center as defined in 42 U.S.C. Section 1395
216 of the Public Health Service Act, as amended.

217 10. The state board of registration for the healing
218 arts under section 334.125 may promulgate rules regulating
219 the use of collaborative practice arrangements.

220 11. The state board of registration for the healing
221 arts shall not deny, revoke, suspend, or otherwise take
222 disciplinary action against a collaborating physician for
223 health care services delegated to a physician assistant,
224 provided that the provisions of this section and the rules
225 promulgated thereunder are satisfied.

226 12. Within thirty days of any change and on each
227 renewal, the state board of registration for the healing
228 arts shall require every physician to identify whether the
229 physician is engaged in any collaborative practice
230 arrangement, including collaborative practice arrangements

delegating the authority to prescribe controlled substances, and also report to the board the name of each physician assistant with whom the physician has entered into such arrangement. The board may make such information available to the public. The board shall track the reported information and may routinely conduct random reviews of such arrangements to ensure that the arrangements are carried out in compliance with this chapter.

13. The collaborating physician shall determine and document the completion of a period of time during which the physician assistant shall practice with the collaborating physician continuously present before practicing in a setting where the collaborating physician is not continuously present. This limitation shall not apply to collaborative arrangements of providers of population-based public health services as defined by 20 CSR 2150-5.100 as of April 30, 2009.

14. No contract or other arrangement shall require a physician to act as a collaborating physician for a physician assistant against the physician's will. A physician shall have the right to refuse to act as a supervising physician, without penalty, for a particular physician assistant. No contract or other agreement shall limit the collaborating physician's ultimate authority over any protocols or standing orders or in the delegation of the physician's authority to any physician assistant. No contract or other arrangement shall require any physician assistant to collaborate with any physician against the physician assistant's will. A physician assistant shall have the right to refuse to collaborate, without penalty, with a particular physician.

262 15. Physician assistants shall file with the board a
263 copy of their collaborating physician form.

264 16. No physician shall be designated to serve as a
265 collaborating physician for more than six full-time
266 equivalent licensed physician assistants, full-time
267 equivalent advanced practice registered nurses, or full-time
268 equivalent assistant physicians, or any combination
269 thereof. This limitation shall not apply to physician
270 assistant collaborative practice arrangements of hospital
271 employees providing inpatient care service in hospitals as
272 defined in chapter 197, or to a certified registered nurse
273 anesthetist providing anesthesia services under the
274 supervision of an anesthesiologist or other physician,
275 dentist, or podiatrist who is immediately available if
276 needed as set out in subsection 7 of section 334.104.

277 17. No arrangement made under this section shall
278 supercede current hospital licensing regulations governing
279 hospital medication orders under protocols or standing
280 orders for the purpose of delivering inpatient or emergency
281 care within a hospital, as defined in section 197.020, if
282 such protocols or standing orders have been approved by the
283 hospital's medical staff and pharmaceutical therapeutics
284 committee.

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