

SECOND REGULAR SESSION

HOUSE BILL NO. 2850

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LOVASCO.

5717H.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Section A. Section 579.015, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 191.478 and 579.015, to read as follows: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 is designated by the eligible patient to assist in the eligible patient's medical use of natural medicine;**
- (2) "Department", the department of health and senior services;**
- (3) "Eligible patient", a person who:**
 - (a) Has been diagnosed by a physician with one or more of the following conditions:**
 - a. Treatment-resistant posttraumatic stress disorder;**
 - b. Treatment-resistant depression;**
 - c. Terminal illness; or**
 - d. Any other serious condition that has not responded positively or significantly to treatment and that is approved by the department as described in subsection 9 of this section; and**
 - (b) Has documentation from the person's physician that the person has met the requirements of this subdivision;**

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.

16 (4) "Medical use", the acquisition, use, production, possession, delivery, transfer,
17 or administration of natural medicine, or paraphernalia used to administer natural
18 medicine by a caregiver or an eligible patient, for the benefit of an eligible patient;

19 (5) "Natural medicine", dimethyltryptamine; ibogaine; mescaline other than
20 *Lophophora williamsii* (peyote); psilocybin; or psilocyn, if derived from a plant or
21 fungus;

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

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

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

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

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

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

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

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

39 (4) The residence of the eligible patient or the eligible patient's primary
40 caregiver.

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

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

53 **8. Notwithstanding any other provision of law, the medical use of natural**
54 **medicine by an eligible patient or caregiver in compliance with this section is not subject**
55 **to criminal or civil liability under the laws of this state.**

56 **9. (1) Any person may petition the department to add a condition to the list set**
57 **forth in paragraph (a) of subdivision (3) of subsection 1 of this section. The department**
58 **shall consider a petition filed under this subsection in the manner required by rules**
59 **adopted by the department. The rules shall include notice to the public and a**
60 **reasonable period for public comment on the petition. The department shall grant a**
61 **petition filed under this subsection if the petitioner establishes that, based on available**
62 **evidence, natural medicine may benefit persons with the proposed condition in a**
63 **manner equal to or greater than the benefit of natural medicine for those with**
64 **qualifying conditions listed in subparagraphs a. to c. of paragraph (a) of subdivision (3)**
65 **of subsection 1 of this section. Notwithstanding any other provision of law, the**
66 **department shall approve or deny a petition filed under this subsection within one**
67 **hundred eighty days of its submission.**

68 **(2) Any rule or portion of a rule, as that term is defined in section 536.010, that is**
69 **created under the authority delegated in this section shall become effective only if it**
70 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
71 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**
72 **vested with the general assembly pursuant to chapter 536 to review, to delay the**
73 **effective date, or to disapprove and annul a rule are subsequently held unconstitutional,**
74 **then the grant of rulemaking authority and any rule proposed or adopted after August**
75 **28, 2022, shall be invalid and void.**

76 **10. Except in the case of gross negligence or willful misconduct, any person who**
77 **manufactures, imports, distributes, prescribes, dispenses, or administers natural**
78 **medicine to an eligible patient for medical use in accordance with this section shall**
79 **not be liable in any action under state law for any loss, damage, or injury arising out of,**
80 **relating to, or resulting from:**

81 **(1) The design, development, clinical testing and investigation, manufacture,**
82 **labeling, distribution, sale, purchase, donation, dispensation, prescription,**
83 **administration, or use of the natural medicine; or**

84 **(2) The safety or effectiveness of the 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 each 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", dimethyltryptamine; ibogaine; mescaline other than**
9 **Lophophora williamsii (peyote); psilocybin; or psilocyn, if derived from a plant or**
10 **fungus.**

11 **2.** A person commits the offense of possession of a controlled substance if he or she
12 knowingly possesses a controlled substance, except as authorized by this chapter or chapter
13 195.

14 ~~[2-]~~ **3.** The offense of possession of any controlled substance except:

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

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

17

18 is a class D felony.

19 ~~[3-]~~ **4.** The offense of possession of:

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

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

23

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

26 ~~[4-]~~ **5.** The offense of possession of:

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

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

29

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

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