

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE SUBSTITUTE FOR  
**SENATE BILL NO. 742**  
**96TH GENERAL ASSEMBLY**

5590L.07C

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To repeal sections 191.227, 338.315, and 338.333, RSMo, and to enact in lieu thereof eight new sections relating to health care, with penalty provisions.

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

Section A. Sections 191.227, 338.315, and 338.333, RSMo, are repealed and eight new  
2 sections enacted in lieu thereof, to be known as sections 9.179, 191.227, 338.255, 338.315,  
3 338.333, 376.1575, 376.1578, and 376.1580, to read as follows:

**9.179. March twenty-seventh of each year shall be designated as "Medical  
2 Radiation Safety Awareness Day" in Missouri. The citizens of this state and our health  
3 care professionals community are encouraged to observe the day with activities designed  
4 to educate and enhance the awareness of not only the benefits of radiographic medical  
5 procedures, but the potential dangers of overexposure to radiation during diagnostic  
6 imaging and radiation therapy as well in order to reduce the frequency of adverse events  
7 and allow our citizens to make informed decisions about their medical care.**

191.227. 1. All physicians, chiropractors, hospitals, dentists, and other duly licensed  
2 practitioners in this state, herein called "providers", shall, upon written request of a patient, or  
3 guardian or legally authorized representative of a patient, furnish a copy of his or her record of  
4 that patient's health history and treatment rendered to the person submitting a written request,  
5 except that such right shall be limited to access consistent with the patient's condition and sound  
6 therapeutic treatment as determined by the provider. Beginning August 28, 1994, such record  
7 shall be furnished within a reasonable time of the receipt of the request therefor and upon  
8 payment of a fee as provided in this section.

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.

9           2. Health care providers may condition the furnishing of the patient's health care records  
10 to the patient, the patient's authorized representative or any other person or entity authorized by  
11 law to obtain or reproduce such records upon payment of a fee for:

12           (1) (a) [Copying] **Search and retrieval**, in an amount not more than [twenty-one]  
13 **twenty-two** dollars and [thirty-six cents] **one cent** plus [fifty] **copying in an amount of fifty-**  
14 **two** cents per page for the cost of supplies and labor plus, if the health care provider has  
15 contracted for off-site records storage and management, any additional labor costs of outside  
16 storage retrieval, not to exceed twenty dollars, as adjusted annually pursuant to subsection 5 of  
17 this section; or

18           (b) [If the health care provider stores records in an electronic or digital format, and  
19 provides the requested records and affidavit, if requested, in an electronic or digital format, not  
20 more than five dollars plus fifty cents per page or twenty-five dollars total, whichever is less]  
21 **The records shall be furnished electronically upon payment of the search, retrieval and**  
22 **copying fees set under this section at the time of the request or one hundred dollars total,**  
23 **whichever is less, if such person:**

24           a. **Requests health records to be delivered electronically in a format of the health**  
25 **care provider's choice;**

26           b. **The health care provider stores such records completely in an electronic health**  
27 **record; and**

28           c. **The health care provider is capable of providing the requested records and**  
29 **affidavit, if requested, in an electronic format;**

30           (2) Postage, to include packaging and delivery cost; and

31           (3) Notary fee, not to exceed two dollars, if requested.

32           3. Notwithstanding provisions of this section to the contrary, providers may charge for  
33 the reasonable cost of all duplications of health care record material or information which cannot  
34 routinely be copied or duplicated on a standard commercial photocopy machine.

35           4. The transfer of the patient's record done in good faith shall not render the provider  
36 liable to the patient or any other person for any consequences which resulted or may result from  
37 disclosure of the patient's record as required by this section.

38           5. Effective February first of each year, the fees listed in subsection 2 of this section shall  
39 be increased or decreased annually based on the annual percentage change in the unadjusted,  
40 U.S. city average, annual average inflation rate of the medical care component of the Consumer  
41 Price Index for All Urban Consumers (CPI-U). The current reference base of the index, as  
42 published by the Bureau of Labor Statistics of the United States Department of Labor, shall be  
43 used as the reference base. For purposes of this subsection, the annual average inflation rate  
44 shall be based on a twelve-month calendar year beginning in January and ending in December

45 of each preceding calendar year. The department of health and senior services shall report the  
46 annual adjustment and the adjusted fees authorized in this section on the department's internet  
47 website by February first of each year.

**338.255. Notwithstanding any other provision of law, no pharmacy licensed in this  
2 state shall be required to carry or maintain in inventory any prescription or  
3 nonprescription drug or device.**

338.315. **1. Except as otherwise provided by the board by rule, it shall be unlawful  
2 for any pharmacist, pharmacy owner or person employed by a pharmacy to knowingly purchase  
3 or receive any legend drugs under 21 U.S.C. Section 353 from other than a licensed or registered  
4 drug distributor or licensed pharmacy. Any person who violates the provisions of this section  
5 shall, upon conviction, be adjudged guilty of a class A misdemeanor. Any subsequent conviction  
6 shall constitute a class D felony.**

**7 2. Notwithstanding any other provision of law to the contrary, the sale, purchase,  
8 or trade of a prescription drug by a pharmacy to other pharmacies is permissible if the  
9 total dollar volume of such sales, purchases, or trades are in compliance with the rules of  
10 the board and do not exceed five percent of the pharmacy's total annual prescription drug  
11 sales.**

**12 3. Pharmacies shall establish and maintain inventories and records of all  
13 transactions regarding the receipt and distribution or other disposition of legend drugs.  
14 Such records shall be maintained for two years and be readily available upon request by  
15 the board or its representatives.**

**16 4. The board shall promulgate rules to implement the provisions of this section.  
17 Any rule or portion of a rule, as that term is defined in section 536.010, that is created  
18 under the authority delegated in this section shall become effective only if it complies with  
19 and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.  
20 This section and chapter 536 are nonseverable and if any of the powers vested with the  
21 general assembly pursuant to chapter 536 to review, to delay the effective date, or to  
22 disapprove and annul a rule are subsequently held unconstitutional, then the grant of  
23 rulemaking authority and any rule proposed or adopted after August 28, 2012, shall be  
24 invalid and void.**

338.333. **1. Except as otherwise provided by the board of pharmacy by rule in the  
2 event of an emergency or to alleviate a supply shortage, no person or distribution outlet shall  
3 act as a wholesale drug distributor or pharmacy distributor without first obtaining license to do  
4 so from the Missouri board of pharmacy and paying the required fee. The board may grant  
5 temporary licenses when the wholesale drug distributor or pharmacy distributor first applies for  
6 a license to operate within the state. Temporary licenses shall remain valid until such time as**

7 the board shall find that the applicant meets or fails to meet the requirements for regular  
8 licensure. No license shall be issued or renewed for a wholesale drug distributor or pharmacy  
9 distributor to operate unless the same shall be operated in a manner prescribed by law and  
10 according to the rules and regulations promulgated by the board of pharmacy with respect  
11 thereto. Separate licenses shall be required for each distribution site owned or operated by a  
12 wholesale drug distributor or pharmacy distributor, unless such drug distributor or pharmacy  
13 distributor meets the requirements of section 338.335.

14 2. An agent or employee of any licensed or registered wholesale drug distributor or  
15 pharmacy distributor need not seek licensure under this section and may lawfully possess  
16 pharmaceutical drugs, if he is acting in the usual course of his business or employment.

17 3. The board may permit out-of-state wholesale drug distributors or out-of-state  
18 pharmacy distributors to be licensed as required by sections 338.210 to 338.370 on the basis of  
19 reciprocity to the extent that an out-of-state wholesale drug distributor or out-of-state pharmacy  
20 distributor both:

21 (1) Possesses a valid license granted by another state pursuant to legal standards  
22 comparable to those which must be met by a wholesale drug distributor or pharmacy distributor  
23 of this state as prerequisites for obtaining a license under the laws of this state; and

24 (2) Distributes into Missouri from a state which would extend reciprocal treatment under  
25 its own laws to a wholesale drug distributor or pharmacy distributor of this state.

**376.1575. As used in sections 376.1575 to 376.1580, the following terms shall mean:**

2 (1) **"Completed application", a practitioner's application to a health carrier that**  
3 **seeks the health carrier's authorization for the practitioner to provide patient care services**  
4 **as a member of the health carrier's network and does not omit any information which is**  
5 **clearly required by the application form or the accompanying instructions, including**  
6 **information requiring confirmation from primary verification sources;**

7 (2) **"Credentialing", a health carrier's process of assessing and validating the**  
8 **qualifications of a practitioner to provide patient care services and act as a member of the**  
9 **health carrier's provider network;**

10 (3) **"Health carrier", the same meaning as such term is defined in section 376.1350;**

11 (4) **"Practitioner":**

12 (a) **A physician or physician assistant eligible to provide treatment services under**  
13 **chapter 334;**

14 (b) **A pharmacist eligible to provide services under chapter 338;**

15 (c) **A dentist eligible to provide services under chapter 332;**

16 (d) **A chiropractor eligible to provide services under chapter 331;**

- 17 (e) A podiatrist eligible to provide services under chapter 330;  
18 (f) A psychologist or licensed clinical social worker eligible to provide services  
19 under chapter 337; or  
20 (g) An advanced practice nurse eligible to provide services under chapter 335.

376.1578. 1. Within five business days after receipt of an electronically filed  
2 credentialing application by a health carrier, the carrier shall send an electronic notice of  
3 receipt to the practitioner.

4 2. A health carrier shall assess a health care practitioner's credentialing  
5 information and make a decision as to whether to approve or deny the practitioner's  
6 credentialing application within ninety calendar days of the date of receipt of the  
7 completed application. The ninety-day deadline established in this section shall not apply  
8 if the application or subsequent verification of information indicates that the practitioner  
9 has:

10 (1) A history of behavioral disorders or other impairments affecting the  
11 practitioner's ability to practice, including but not limited to substance abuse;

12 (2) Licensure disciplinary actions against the practitioner's license to practice  
13 imposed by any state or territory or foreign jurisdiction;

14 (3) Had the practitioner's hospital admitting or surgical privileges or other  
15 organizational credentials or authority to practice revoked, restricted, or suspended based  
16 on the practitioner's clinical performance; or

17 (4) A judgment or judicial award against the practitioner arising from a medical  
18 malpractice liability lawsuit.

19 3. The department of insurance, financial institutions and professional registration  
20 shall establish a mechanism for reporting alleged violations of this section to the  
21 department.

376.1580. 1. A health carrier shall permit a practitioner to bill and be paid directly  
2 by the insurer for providing treatment services as of the date of receipt of the initial  
3 credentialing application to the enrollees of the health carrier while the initial credentialing  
4 application is under review, subject to the following limitations:

5 (1) The health carrier may limit the payment rate to the fee schedule or other  
6 reimbursement mechanism applicable to practitioners who are not included in the health  
7 carrier's network of contracted providers;

8 (2) The health carrier may refuse to allow a practitioner the capacity to bill and be  
9 directly paid if the practitioner is not affiliated with an entity that has a current

10 **contractual relationship with the health carrier to provide treatment services to the health**  
11 **carrier's enrollees as part of the carrier's provider network;**

12 **(3) The health carrier may refuse to list the practitioner in a directory or other list**  
13 **of providers made available to the health carrier's enrollees as part of the health carrier's**  
14 **provider network;**

15 **(4) The health carrier may refuse to allow the practitioner to be designated as an**  
16 **enrollee's designated primary care or care coordinating practitioner while the**  
17 **credentialing application is pending;**

18 **(5) Any obligation to allow a practitioner to bill and be directly paid under this**  
19 **section shall cease upon the health carrier's providing notice to the practitioner that the**  
20 **practitioner's credentialing application has been denied, provided that treatment services**  
21 **rendered prior to the date of receipt of the denial shall be eligible to be billed and directly**  
22 **paid; and**

23 **(6) Sections 376.383 and 376.384 shall not apply to the first fifteen business days**  
24 **after a health carrier receives a practitioner's initial credentialing application.**

25 **2. Nothing in this section shall require a health carrier to pay for treatment services**  
26 **which are excluded from the health carrier's benefit plan or require a health carrier to add**  
27 **a practitioner to any of the health carrier's networks.**

28 **3. The provisions of this section shall not apply:**

29 **(1) To any practitioner who fails to sign, complete, and return to the health carrier**  
30 **within ten business days after a contract offered by the carrier in response to the**  
31 **practitioner's application for credentialing. Any claim made by such provider prior to the**  
32 **ten business days after a contract is offered by the carrier shall be covered under the**  
33 **provision of sections 376.1575 to 376.1580;**

34 **(2) At any such time the contractual relationship between the entity with whom the**  
35 **providers are affiliated and the health carrier is not in force or effect.**

36 **4. Nothing in sections 376.1575 to 376.1580 shall be construed to require a health**  
37 **carrier to accept or add a practitioner to the carrier's provider network.**

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