EMERGENCY AMENDMENT
20 CSR 2220-6.055 Non-Dispensing Activities. The board is amending sections (2), (4) and (6).

PURPOSE: This amendment establishes requirements for pharmacy technicians assisting pharmacists with non-dispensing activities authorized by the rule outside of a Missouri licensed pharmacy.

EMERGENCY STATEMENT: On January 31, 2020, the U.S. Secretary of Health and Human Services declared a public health emergency to aid the nation’s healthcare community in responding to COVID-19. The Governor of Missouri declared a similar State of Emergency on March 13, 2020, finding that COVID-19 poses a serious health risk for Missouri residents and visitors. In response, multiple states, cities, and businesses have closed or limited business operations. Currently, 20 CSR 2220-6.055 prohibits pharmacy technicians from assisting Missouri pharmacists with non-dispensing activities remotely or outside of the licensed pharmacy building. This prohibition will adversely affect patient care if pharmacy technicians are needed to assist with non-dispensing activities from a remote location or while the pharmacist is practicing outside of the physical pharmacy due to COVID-19 (e.g., recording patient information for pharmacists administering medication outside of a pharmacy). The board has determined this emergency rule is needed to ensure adequate availability of pharmacy services by allowing pharmacy technicians to fully assist pharmacists with non-dispensing activities outside of a licensed pharmacy under appropriate pharmacist supervision. Absent an emergency rule, pharmacists would not have sufficient support staff to respond to an emergency or to remotely assist with non-dispensing activities in the event of an unanticipated pharmacy closure. As a result, the Missouri State Board of Pharmacy finds there is an immediate danger to the public health, safety, and/or welfare and a compelling governmental interest that requires this emergency action. A proposed rule, which covers the same material, was published in the Missouri Register on March 16, 2020 (45 MoReg 426-427). The board is currently seeking to file an emergency amendment to allow an early effective date. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Missouri State Board of Pharmacy believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed June 5, 2020, effective June 19, 2020, and expires September 1, 2020.

(2) Confidentiality. A pharmacist, pharmacy technician or intern pharmacist performing non-dispensing activities pursuant to this rule shall comply with all applicable state and federal confidentiality laws and regulations and shall provide sufficient, Sufficient storage and security for confidential documents and electronic data processing hardware must be provided by the pharmacy permit holder or the pharmacist. In addition, data processing systems must utilize sufficient security software to ensure confidentiality and prevent unauthorized access. Any breach in the security or confidentiality of the data processing systems or confidential documents shall be documented and reported to the board in writing within seven (7) days of the breach.

(4) A pharmacist, pharmacy technician or intern pharmacist performing non-dispensing activities pursuant to this rule shall ensure compliance with Chapter 338, RSMo, and the rules of the board at all times. Nothing in this rule shall be construed to eliminate or otherwise exempt any pharmacist, pharmacy technician, intern pharmacist or pharmacy permit holder from the record-keeping, confidentiality, or security requirements otherwise imposed by Chapter 338, RSMo, or the rules of the board. Violations of this section shall constitute grounds for discipline.

(6) A pharmacy technician and intern pharmacist may be used to assist a pharmacist with non-dispensing activities outside of a pharmacy subject to the following:

(A) The pharmacy technician/intern pharmacist must be under the direct supervision of a Missouri licensed pharmacist as required by 20 CSR 2220-2.710. The supervising pharmacist must ensure pharmacy technician/intern pharmacist activities comply with state and federal law and must provide the personal assistance, direction, and approval required to verify and ensure delegated non-dispensing activities are safely and properly performed;

(B) The pharmacy technician or intern pharmacist must have completed employer approved training in the activities performed and have an initial and, if applicable, annual documented assessment of proficiency. Documentation of the completed training and proficiency assessment must be maintained in the pharmacy’s records for a minimum of two (2) years and provided to the board or the board’s designee upon request;

(C) A sufficient mechanism must be in place to allow real-time communication between a pharmacist and the technician/intern pharmacist when needed. A pharmacist must be available to respond to pharmacy technician/intern pharmacist questions at all times non-dispensing activities are being performed; and

(D) Adequate security and supervision must be maintained at all times to prevent unauthorized access to, and unauthorized storage/transfer of, confidential patient information or patient records.

(E) The provisions of this section (6) do not apply to technicians or intern pharmacists engaged in delivering filled prescriptions/medication orders on behalf of the pharmacy as authorized by 20 CSR 2220-2.013.

PUBLIC COST: This proposed amendment will not cost state agencies more than five hundred dollars ($500) in the time the emergency is effective.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the time the emergency is effective.