

AN ORDINANCE OF THE
COUNTY COMMISSION OF HENRY COUNTY, MISSOURI
ESTABLISHING A PRESCRIPTION DRUG MONITORING PROGRAM

Section 1 Title; Scope; Applicability; Construction.

Section 1.01. This title of this Ordinance shall be known as the "Henry County Prescription Drug Monitoring Program."

Section 1.02. The provisions of this Ordinance shall serve to enact the development and administration of a program for monitoring the prescribing and dispensing of schedule II, III, and IV controlled substances by professionals licensed to prescribe or dispense such substances within Henry County and shall be known as the Prescription Drug Monitoring Program ("PDMP"); establishing penalties for violations thereof; authorizing the County Commission to accept grants and donations in support of the PMDP; and appropriating the same upon receipt for support of the PDMP.

Section 1.03. The provisions of this Ordinance shall apply to all unincorporated and incorporated areas of the County, including municipalities, located within the geographic boundaries of the County.

Section 1.04. The provisions of this Ordinance shall not apply to persons licensed pursuant to Chapter 340, RSMo. when operating within the course and scope of their license under Chapter 340, RSMo.

Section 1.05. This Ordinance shall be construed and interpreted in accordance with the provisions set forth in Ordinance Number 26352, adopted by St. Louis County, Missouri, on March 1, 2016 and codified in Sections 602.800 through 602.808 of the Code of Ordinances of St. Louis County, Missouri.

Section 2. Definitions.

2.01. Controlled Substance: A drug, substance, or immediate precursor described in Schedules I through V as set forth in Chapter 195, RSMo.

2.02. Health Department: The Henry County Health Department.

2.03. Director: The Administrator of the Health Department, or the person duly designated by the Director to carry out the duties of the Director.

2.04. Dispenser: A person who delivers a Schedule II, III, or IV controlled substance to a patient, however, the term does not include: (i) a hospital as defined in Section 197.020, RSMO. that distributes such controlled substances for the purpose of inpatient care, or dispenses prescriptions for controlled substances at the time of discharge from such facility; (ii) a

practitioner or other authorized person who administers such controlled substances; or (iii) a wholesale distributor of a Schedule II, III, or IV controlled substance.

2.05. Patient: A person who is the ultimate intended users of a Controlled Substance for whom a prescription is issued, or for whom a Controlled Substance is dispensed, not including a Hospice patient enrolled in a Medicare certified hospice program for which a Controlled Substance is dispensed to the patient by a Hospice program.

2.06. Schedule II, III, or IV Controlled Substance: A controlled substance listed in Schedules II, III, or IV as set forth in Chapter 195, RSMo., or the Controlled Substance Act, 21 U.S.C. Section 812 (as amended).

Section 3. Establishment of Prescription Drug Monitoring Program.

Section 3.01. Henry County shall establish and maintain a program for monitoring the prescribing and dispensing of all Schedule II, III, and IV Controlled Substances by professionals licensed to prescribe or dispense such Controlled Substances in Henry County, and may implement such rules and regulations as are necessary to effectuate such program. The program established and maintained shall operate so as to be consistent with federal law concerning regulation of narcotics and with the privacy of lawful users of same. The rules may provide for the County to suspend the requirement of reporting a particular category of information pursuant to Section 3.02 of this section, if the Director determines that reporting will conflict with collection of other reported information by the collection management system of the monitoring program. The rules shall be effective upon approval of the County Commission.

Section 3.02. Within seven (7) business days of having dispensed a Schedule II, III, or IV Controlled Substance, the dispenser of same shall submit to the Department by electronic means information regarding such dispensing. The information submitted for each dispensing shall at a minimum include: (i) the pharmacy's Drug Enforcement Administration ("DEA") number; (ii) the date of dispensation; (iii) if dispensed via a prescription: (a) the prescription number or other unique identifier; (b) whether the prescription is new or a re-fill; (c) the prescriber's DEA or National Provider Identifier ("NPI") number; (d) the National Drug Code ("NDC") of the drug dispensed; (e) the quantity and dosage of the drug dispensed; (f) an identifier for the patient to whom the drug was dispensed, including but not limited to any one of the following: a driver's license number; the patient's government-issued identification number; the patient's insurance cardholder identification number; or the patient's name, address and date of birth.

Section 3.03. The dispenser's submission of the required information to DPH shall be in accordance with transmission standards established by the American Society for Automation in Pharmacy or any of its successor organizations.

Section 3.04. The Director, or its designee, may issue a waiver of the electronic transmission requirement to a dispenser demonstrably unable to comply with the requirement set forth in Section 3.02 and 3.03. A waiver shall expire one year from the date of

its issuance. Required information submitted under a waiver shall be submitted within the same time frame as is required herein for electronic transmission.

Section 3.05. A dispenser who has not received a waiver of the electronic submission requirement but who, due to unforeseen circumstances, is temporarily unable to transmit dispensation information electronically may upon application to the Director, or its designee, receive an extension of up to ten (10) business days in which to submit the required dispensation information by electronic transmission, which extension may be renewed upon subsequent showing of need by the applicant dispenser.

Section 3.06. The Director, or its designee, shall make a decision concerning an application for a waiver or extension within five (5) business days of receipt thereof. An applicant for a waiver or extension who has been aggrieved by a decision of the County may appeal the decision to the County Commission within five (5) business days of the decision.

Section 4. Dispensation Information To Be Closed Pursuant to Law.

Section 4.01. Except when provided to persons or agencies authorized by this Ordinance to receive such information, dispensation information submitted pursuant to this Ordinance shall be a closed record and not subject to public disclosure except as provided by law. No person shall provide such information to any person or agency not authorized by this Ordinance to receive it. A request for dispensation information made under Chapter 610, RSMo. shall be referred to the attorney for the County, who shall take all reasonable and lawful steps to ensure non-disclosure of the information.

Section 4.02. The County shall ensure the development and enforcement of procedures to ensure that the privacy and confidentiality of patients and personal information collected, recorded, transmitted and maintained are not disclosed to persons not authorized by this Ordinance to receive dispensation information.

Section 5. Use of the Monitoring System by Dispenses Not Located in Henry County.

Dispensers located in counties other than Henry County may be permitted to transmit dispensing information, either on a voluntary basis or pursuant to local order or ordinance or state law. Permission shall be conditional upon the dispenser complying in all respects with the provisions of this Ordinance.

Notification of Law Enforcement or Regulatory Agency.

The Director, or its designee, shall review dispensation information transmitted under this Ordinance, and if the Director, or its designee, develops a reasonable belief that a violation of law has occurred, or develops a reasonable belief that a breach of professional standards has occurred, the Director, or its designee, shall notify the appropriate law enforcement agency or the appropriate professional licensing, certification or regulatory agency. The Director, or its

designee, may provide any dispensation information requested by such entities when advised that such information is required for conduct of an official investigation.

Section 6. Persons Authorized to be Provided Dispensation Information.

Section 6.01. Dispensation information and other data compiled in connection with the PDMP may be provided to the following persons upon a duly made request: (i) persons, whether in or out of the State of Missouri, who are authorized to prescribe or dispense controlled substances, if the requesting person demonstrates that the request is made for the purpose of providing medical or pharmaceutical care for a patient; (ii) persons who request their own dispensation information in accordance with law; (iii) the State Board of Pharmacy; (iv) any state board charged with regulating a professional authorized to prescribe or dispense controlled substances, and which has duly requested the information or data in the course of a current and open investigation into the acts of a professional under the jurisdiction of the state board, provided that only information related to the subject professional shall be provided; (v) local, state and federal law enforcement or prosecutorial officials, inside or outside the state of Missouri, who are engaged in the administration or investigation of the enforcement of laws governing prescription drugs based on a specific case and under a subpoena issued pursuant to court order; (vi) the MO HealthNet division of the Missouri Department of Social Services regarding MO HealthNet program recipients; or (vii) a judge or other judicial officers under a subpoena issued pursuant to court order.

Section 6.02. In addition to the persons set forth in Section 6.01, dispensation information and data may be provided to public or private entities for statistical or educational purposes, however, any information that could reasonably be thought usable to identify individual persons shall be deleted or de-identified.

Section 7. Pharmacists or Prescribers Not Required to Obtain Information.

This Ordinance shall not be construed or interpreted to require a pharmacist or prescriber to obtain dispensation information possessed or maintained pursuant to the PDMP.

Section 8. Violations; Penalty.

No person, absent lawful authority, shall knowingly access or disclose prescription or dispensation information maintained pursuant to the PDMP, or knowingly violate any other provision of this Ordinance. Any person, firm, corporation or association which violates this Ordinance shall be guilty of a misdemeanor and shall be prosecuted, tried and fined as otherwise provided by law.

Section 9. Adoption.

This Ordinance shall remain in full force and effect only as long as a prescription drug monitoring program or narcotic monitoring program that contains substantially the same elements and requirements as those adopted by this Ordinance, have been adopted by, and remain in force and effect in St. Louis County, Missouri.

ADOPTED by the County Commission of Henry County, Missouri, this 30 day of May, 2019.



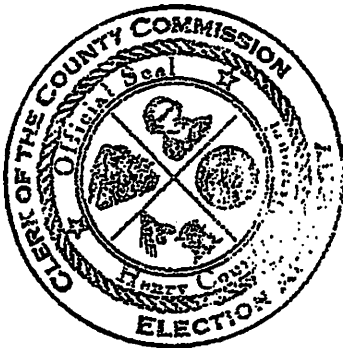
Jim Stone, Presiding Commissioner



Rick Fosnow, North District Commissioner



Dale Lawler, South District Commissioner



Attested this 30th day of May, 2019, by



Rick Watson, Henry County Clerk