

ORDINANCE NUMBER 0227201701

Lincoln County, Missouri

An Ordinance Enacting Prescription Drug Monitoring Program in Lincoln County, Missouri

An ordinance enacting Prescription Drug Monitoring Program in Lincoln County, Missouri which: 1) pertains to 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 Lincoln County, 2) establishes penalties for violations thereof, 3) authorizes the county commission to accept grants and donations in support of the monitoring program, and 4) appropriating for the same upon receipt for support of the monitoring program.

Be it ordained by the Lincoln County Commission as follows:

Section 1. Authority

Section 192.300, RSMo. "The county commissions and county health boards of the several counties may make and promulgate orders, ordinances, rules or regulations, respectively as will tend to enhance the public health and prevent the entrance of infectious, contagious, communicable or dangerous diseases into such county, but any orders, ordinances, rules or regulations shall not be in conflict with any rules or regulations authorized and made by the Department of Health in accordance with this chapter or by the Department of Social Services under Chapter 198, RSMo."

This Ordinance shall apply to all provisions of this Ordinance as well as any rules and regulations promulgated pursuant to this Ordinance. The enforcement of this Ordinance shall be with the Lincoln County Health Department as well as such other County entities as provided by law to enforce the Ordinances of Lincoln County, Missouri.

Section 2. Adoption of Ordinance

Pursuant to Section 192.300, RSMo, after the promulgation and adoption of this Ordinance by the County Commission, the County Commission shall enter an order or record which declares this Ordinance to be printed and available for distribution to the public in the office of the County Clerk, and a copy of such order shall be published in a newspaper in the county for three successive weeks, not later than thirty days after the entry of such Ordinance.

After passage, a copy of this Ordinance shall be on file with the County Clerk's Office located in the Lincoln County Courthouse in Troy, Missouri. Further a copy of this Ordinance shall be available from the Lincoln County Health Department at 5 Health Department Drive, Troy, Missouri 63379. Copies of this Ordinance are available upon request after payment of the appropriate copy fee as established by the County Clerk's Office or Lincoln County Health Department.

Section 3. Applicability & Purpose

This Ordinance shall apply as set forth in Ordinance Number 0227201701, Lincoln County, Missouri, Prescription Drug Monitoring Program. The purpose of this Ordinance is to enhance the public health and for monitoring the prescribing and dispensing of all Schedule II, III, and IV controlled substances by professionals licensed to prescribe or dispense such substances in Lincoln County.

The provisions of this Ordinance shall not apply to persons licensed pursuant to Chapter 340 of the Revised Statutes of Missouri, a chapter which deals with the licensing of veterinarians.

Section 4. Title

This Ordinance shall be known as the “Lincoln County, Missouri, Prescription Drug Monitoring Program” or the “PDMP.”

Section 5. Definitions

As used in this ordinance, unless the context otherwise requires, the following terms shall mean:

5.1 “Controlled substance” means a drug, substance, or immediate precursor in Schedules I through V as set out in Chapter 195 of the Revised Statutes of Missouri.

5.2 “Department” or “Health Department” means the Lincoln County Health Department.

5.3 “Administrator” means the Administrator of the Lincoln County Health Department, or the person or persons duly designated by the Administrator to carry out the duties of the Administrator specified in the PDMP.

5.4 “Dispenser” means a person who delivers a Schedule II, III, or IV controlled substance to a patient. However, the term does not include:

a. a hospital as defined in Section 197.020 of the Revised Statutes of Missouri that distributes such substances for the purpose of inpatient care or dispenses prescriptions for controlled substances at the time of discharge from such facility;

b. a practitioner or other authorized person who administers such a substance; or

c. a wholesale distributor of a Schedule II, III, or IV controlled substance.

5.5 “Patient” means a person who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed, not including a hospice patient enrolled in a Medicare-certified hospice program who has controlled substances dispensed to him or her by such hospice program.

5.6 “Program” shall mean the PDMP and all of the rules and regulations associated with it.

5.7 “Schedule II, III, or IV controlled substance” means a controlled substance listed in Schedules II, III, or IV as set out in Chapter 195 or the Revised Statutes of Missouri or as set out in the Controlled Substances Act, 21 U.S.C. Section 812.

Section 6. Establishment of monitoring program by the Department; coordination with St. Louis County Department of Public Health.

6.1 The Administrator of the Health Department shall coordinate and cooperate with the St. Louis County Department of Public Health to establish and maintain one PDMP program for monitoring the prescribing and dispensing of all Schedule II, III, and IV controlled substances by professionals licensed to prescribe or dispense such substances in Lincoln County and may implement such departmental rules which in the opinion of the Administrator are necessary to implement such program. The program shall operate so as to be consistent with federal law concerning regulation of narcotics and with privacy of lawful users of narcotics. The rules provide for the Administrator to suspend the requirement of reporting a particular category of information pursuant to subsection 6.2 of this section, if the

Administrator determines that so 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 Board of Trustees of the Health Department.

6.2 Within seven business days of having dispensed a Schedule II, III, or IV controlled substance, the Dispenser of same shall submit to the Department—or to an agency or entity designated by the Department—information regarding such dispensing. The information shall be submitted electronically. The information submitted for each dispensing shall at minimum include:

- a. The pharmacy's Drug Enforcement (DEA) number;
- b. The date of dispensation;
- c. If dispensed via a prescription:
 - i. The prescription number or other unique identifier;
 - ii. Whether the prescription is new or a refill;
 - iii. The prescriber's DEA or National Provider Identifier (NPI) number;
 - iv. The National Drug Code (NDC) of the drug dispensed;
 - v. The quantity and dosage of the drug dispensed;
 - vi. 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.

6.3 The Dispenser's submission of the required information shall be in accordance

with transmission standards established by the American Society for Automation in Pharmacy or any of its successor organizations.

6.4 The Administrator is authorized to issue a waiver of the electronic transmission requirement to a Dispenser demonstrably unable to comply with the requirement. 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.

6.5 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 Administrator receive an extension of up to 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.

6.6 The Administrator shall make a decision concerning an application for a waiver or extension within three business days of receipt thereof. An applicant for a waiver or extension who has been aggrieved by a decision of the Administrator may appeal the decision according to law within three business days of the Administrator's decision.

Section 7. Dispensation information to be closed pursuant to law.

7.1 Except when provided to persons or agencies authorized by this chapter to receive such information, dispensation information submitted to the Department or its designee is 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 or the Department to receive it. A

request for dispensation information made under Chapter 610 of the Revised Statutes of Missouri shall be referred to the Administrator, who shall take all reasonable and lawful steps to ensure nondisclosure of the information, except as allowed by law.

7.2 The Administrator shall develop and maintain 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 8. Administrator to notify law enforcement or regulatory agency upon reasonable belief of a law or professional standards violation.

The Administrator shall review dispensation information transmitted to the Department or its designee, and if the Administrator 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 Administrator shall notify the appropriate law enforcement agency or the appropriate professional licensing, certification, or regulatory agency. The Administrator may provide any dispensation information requested by such entities when advised that such information is required for conduct of an official investigation.

Section 9. Persons authorized to be provided dispensation information.

9.1 Dispensation information and other data compiled by the Department or its designee in connection with a monitoring program established by the Administrator may be provided to the following persons upon a duly made request:

- a. 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;

- b. Persons who request their own dispensation information in accordance with law;
- c. The State Board of Pharmacy;
- d. 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. Only information related to the subject professional shall be provided by the Administrator;
- e. Local, state, and federal law enforcement or prosecutorial officials, both in or outside of Missouri, who are engaged in the administration, investigation, or enforcement of laws governing prescription drugs based on a specific case and under a subpoena issued pursuant to court order;
- f. The MO HealthNet division of the Missouri Department of Social Services regarding MO HealthNet program recipients; or
- g. A judge or other judicial officer under a subpoena issued pursuant to court order.

9.2 In addition to the above-specified persons, the Administrator may provide dispensation information and data to public or private entities for statistical or education purposes; however, the Administrator shall first delete any information that could reasonably be thought usable to identify individual persons.

Section 10. Pharmacists or prescribers not required to obtain information from the Health Department.

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

Section 11. Penalties.

11.1 Pursuant to 192.300, RSMo., The County Commission or the County Health Board has full power and authority to initiate the prosecution of any action under 192.300, RSMo.

11.2 Any person, firm, corporation or association which violates any of the orders or ordinances adopted, promulgated and published by the County Commission is guilty of a misdemeanor and shall be prosecuted, tried and fined as otherwise provided by law.

11.3 No person, absent lawful authority, shall knowingly access or disclose prescription or dispensation information maintained by the Department or its designee pursuant to the PDMP, or knowingly violate any other provision of the PDMP.

11.4 A fine of not more than \$1,000.00 (one-thousand dollars), or by imprisonment not exceeding 1 (one) year, or both the fine and imprisonment.

11.5 Each violation of this Ordinance shall be deemed a separate and distinct violation.

Section 12. Establishment of Prescription Drug Monitoring Program Fund.

Upon the passage and approval of this Ordinance, the County Treasurer is authorized and directed to establish a fund to be designated as the "Prescription Drug Monitoring Program Fund" for the purpose of funding the Prescription Drug Monitoring

System and Prescription Drug Monitoring Program. All interest earned by the funds deposited in such special account shall be retained in the account to be appropriated according to provisions of this Ordinance. All expenditures from such fund shall be appropriated in accordance with applicable law.

Section 13. Deposit in Prescription Drug Monitoring Program Fund.

The County Treasurer, upon receipt of funds designated for the "Prescription Drug Monitoring Program Fund" shall place said received payments in the "Prescription Drug Monitoring Program Fund" established in Section 12 of this Ordinance.

Section 14. Severability.

If any portion of this Ordinance and Adopted Code is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision and that holdings shall not affect the validity of the remaining portion of this Ordinance and Adopted Code.

Section 15. Revisions, Amendments and Rules.

The Lincoln County Commission may convene a hearing and enter into this Ordinance any necessary revisions of amendments for the administration of this Ordinance. Such revisions or amendments shall represent a separate, distinct and independent entity of the Ordinance and may be accomplished by court order or any other method allowed by law.

The Lincoln County Health Department and its Administrator shall have the authority to promulgate, make and enact such rules as are deemed necessary by the Administrator and the Board of Trustees of the Lincoln County

Health Department to effectuate and operate this Ordinance.

Section 16. Immunity.

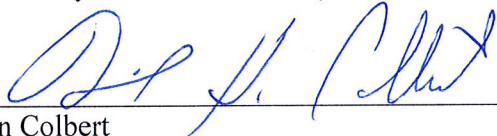
The Lincoln County Health Department and its Administrator shall not be liable for damages resulting from approval by the Lincoln County Health Department and its Administrator for the operation or enforcement of this Ordinance.

Section 15. Initial Funding of PDMP.

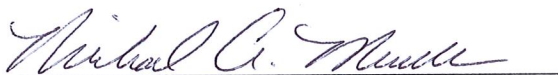
The Lincoln County Health Department shall provide the initial funding for the creation of the PDMP fund pursuant to Section 12.

Section 16. Effective Date.

This Ordinance shall become effective on the date that this Ordinance is acted upon and ordered by the Lincoln County Commission.



Dan Colbert
Presiding Commissioner



Michael A. Mueller
Associate Commissioner District 1



Matt Bass
Associate Commissioner District 2

ATTEST:



Crystal Hall
County Clerk

DATE:

FEB. 27, 2017

