

ORDINANCE NO. 160831

Amending Chapter 34, Code of Ordinances, by enacting a new Article XVIII entitled "Prescription Drug Monitoring Program," consisting of Sections 34-800 through 34-809, for the purpose of creating a Kansas City, Missouri Prescription Drug Monitoring Program to monitor the prescribing and dispensing of Schedule II through IV drugs in Kansas City, Missouri; and authorizing the City Manager to consolidate and coordinate a prescription drug monitoring program with other jurisdictions.

WHEREAS, there is an epidemic of dangerous addictions to drugs, including prescription drugs such as opioids, in our metropolitan area; and

WHEREAS, because Missouri is currently the only state without a prescription drug monitoring program, areas such as St. Louis City, St. Louis County and Jackson County, Missouri have passed laws to establish their own prescription drug monitoring programs; and

WHEREAS, a prescription drug monitoring program will be a vital tool to aid in the improvement of public health, particularly helping to reduce drug addiction and overdoses; and

WHEREAS, a prescription drug monitoring program approach will only be effective if the same registry system is used by all dispensers in the region; and

WHEREAS, Jackson County, Missouri has expressed support for consolidating and coordinating prescription drug monitoring services with the City of Kansas City, Missouri to maintain a combined prescription drug monitoring program; and

WHEREAS, the City Council believes such a program will protect the public health and encourages consolidation and coordination with surrounding jurisdictions; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 34, Code of Ordinances is hereby amended by enacting a new Article XVIII entitled "Prescription Drug Monitoring Program," consisting of Sections 34-800 through 34-809, for the purpose of creating a Kansas City, Missouri Prescription Drug Monitoring Program to monitor the prescribing and dispensing of Schedule II through IV drugs in Kansas City, Missouri, said Article to read as follows:

**ARTICLE XVIII. PRESCRIPTION DRUG MONITORING PROGRAM**

**Sec. 34-800. Establishment; Title.**

There is hereby established a "City of Kansas City, Missouri Prescription Drug Monitoring Program" ("PDMP").

**Sec. 34-801. Definitions.**

*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.

*Director* means the director of the Kansas City, Missouri Health Department or his or her designee.

*Dispenser* means a person who delivers a Schedule II, III, or IV controlled substance to a patient. Dispenser does not include, however: 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 such as a nurse or a physician or other authorized person who administers such a substance; c) a wholesale distributor of a Schedule II, III, or IV controlled substance; or d) persons in the veterinary field licensed pursuant to Chapter 340 of the Revised Statutes of Missouri.

*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. Patient does not include a hospice patient enrolled in a Medicare-certified hospice program who has controlled substances dispensed to him or her by such hospice program.

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

**Sec. 34-802. Director of Health responsibilities; Rules and regulations; coordination with other jurisdictions.**

(a) The Director shall coordinate and cooperate with other jurisdictions to establish and maintain a PDMP 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 the City of Kansas City, Missouri.

(b) Any PDMP shall operate so as to be consistent with federal law, such as laws or regulations concerning narcotics and laws regarding patient privacy.

(c) The Director may implement other rules and regulations to further the purpose of this Article. The Director may use his or her discretion to change the PDMP for reasons the Director determines are in the best interest of the public health or to further the purposes of this Article. The Director may issue, for example, a rule suspending the requirement of reporting a particular category of drug or piece of information if the Director determines that such reporting will conflict with collection of other reported information by the collection management system of the PDMP.

**Sec. 34-803. Reporting Required; Reportable information; Waivers; Extensions**

(a) *Electronic reporting required.* Within seven business days of having dispensed a Schedule II, III, or IV controlled substance, a dispenser shall submit to the Director—or to an agency or entity designated by the Director—information regarding such dispensing. The information shall be submitted electronically in a format required by the Director and in accordance with the transmission standards established by the American Society for Automation in Pharmacy or any of its successor organizations.

(b) *Report contents.* The information submitted for each dispensing shall, at minimum, include:

- (1) the pharmacy's Drug Enforcement (DEA) number;
- (2) the date of dispensation;
- (3) if the substance was dispensed via prescription;
- (4) the prescription number or other unique identifier;
- (5) whether the prescription is new or a refill;
- (6) the prescriber's DEA or National Provider Identifier (NPI) number;
- (7) the National Drug Code (NDC) of the drug dispensed;
- (8) the quantity and dosage of the drug dispensed; and
- (9) an identifier for the patient to whom the drug was dispensed, including but not limited to any one of the following:
  - a. the patient's driver's license number;
  - b. the patient's government-issued identification number;
  - c. the patient's insurance cardholder identification number; or
  - d. the patient's name, address, and date of birth.

(c) *Waiver of electronic requirement.* The Director 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.

(d) *Application for waiver timing.* The Director shall make a decision concerning an application for a waiver or extension within three business days of receipt thereof. An

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applicant for a waiver or extension who has been aggrieved by a decision of the Director may appeal the decision according to law within three business days of the Director's decision.

(e) *Extensions of time.* In the event unforeseen circumstances temporarily prevent a dispenser (who has not received a waiver of the electronic submission requirement) from transmitting dispensation information electronically, the dispenser may, upon application to the Director, receive an extension of up to 10 business days in which to submit the required dispensation information by electronic transmission. The Director may renew such extensions upon a showing of need by the dispenser when the Director finds such an extension is warranted.

**Sec. 34-804. Dispensation information to be closed pursuant to law.**

(a) Except when provided to persons or agencies authorized by this Article to receive such information, dispensation information submitted to the Director is confidential, considered 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 Article or the Director to receive it. A request for dispensation information made under Chapter 610 of the Revised Statutes of Missouri shall be referred to the City Attorney to ensure compliance with this Article.

(b) The Director 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 to receive dispensation information.

**Sec. 34-805. Persons authorized to receive dispensation information.**

(a) Upon a duly-made request, the Director may provide dispensation information and other data compiled in connection with a PDMP only to the following:

- (1) 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;
- (2) persons who request their own dispensation information in accordance with law;
- (3) the Missouri State Board of Pharmacy;
- (4) 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 specific professional under the jurisdiction of the state board. Only information related to the subject professional shall be provided by the Director;

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- (5) 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;
- (6) The MO HealthNet division of the Missouri Department of Social Services regarding MO HealthNet program recipients; or
- (7) A judge or other judicial officer under a subpoena issued pursuant to court order.

(b) *Statistics and Education.* The Director may provide dispensation information and data to public or private entities for statistical or education purposes after having de-identified such information in a manner reasonably thought to be unusable to identify individual persons.

**Sec. 34-806. Unauthorized access to dispensation information prohibited; compliance required.**

(a) Absent lawful authority, no person shall knowingly access or disclose prescription or dispensation information maintained by the Director pursuant to the PDMP, or knowingly violate any other provision of the PDMP.

(b) No person shall violate any provision of this Article.

**Sec. 34-807. Pharmacists or prescribers not required to obtain information from Director.**

Nothing in this Article shall be construed or interpreted to require a pharmacist or prescriber to obtain dispensation information possessed or maintained by the Kansas City, Missouri Health Department or a consolidated PDMP.

**34-808. Penalties.**

Any person convicted of violating this section shall be punished by a fine of up to \$500 per violation, up to 90 days in jail per violation, or both.

**Sec. 34-809. Severability.**

The provisions of this Article are severable. In the event any provision is determined to be invalid, the remaining provisions shall not be affected, except that in no case shall this Article be valid and enforceable without the confidentiality provisions of Section 34-706.

**Secs. 34-810—34-829. Reserved.**

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Section 2. That the City Manager is authorized to work with other jurisdictions, including Jackson County, Missouri, to coordinate the consolidation of a prescription drug monitoring program for the purpose of creating a more effective program.

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Approved as to form and legality:

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Joseph A. Guarino  
Assistant City Attorney