

ORDINANCE NUMBER 70277

1 **BOARD BILL NO. 36 INTRODUCED BY ALDERWOMEN AND ALDERMEN**
2 **LYDA KREWSON, CARA SPENCER, DIONNE FLOWERS, MEGAN-ELLYIA**
3 **GREEN, CAROL HOWARD, KENNETH ORTMANN FRANK WILLIAMSON,**
4 **JOSEPH VACCARO, PRESIDENT REED, MARLENE DAVIS, STEPHEN**
5 **CONWAY, SHANE COHN, DONNA BARINGER, LARRY ARNOWITZ,**
6 **ANTONIO FRENCH, JOSEPH VOLLMER, TERRY KENNEDY, JEFFREY**
7 **BOYD, CHRISTINE INGRASSIA, JOHN (JACK) COATAR**

8 An ordinance pertaining to the development and administration of a program for
9 monitoring the prescribing and dispensing of Schedule II, III, and IV controlled
10 substances by professionals licensed to prescribe or dispense such substances within the
11 City of St. Louis; establishing penalties for violations thereof; authorizing Health
12 Department officials to work with officials in St. Louis County, which is currently setting
13 up a prescription drug monitoring program; authorizing the receipt of donations for
14 support of the monitoring program; and containing an emergency clause.

15 **WHEREAS**, there is an epidemic of dangerous addictions to drugs, including
16 prescription drugs, particularly opioids, in our metropolitan area; and

17 **WHEREAS**, the Board of Aldermen finds that a prescription drug monitoring
18 program would be a vital tool to aid in the improvement of public health; and

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1 **WHEREAS**, St. Louis County officials have established a prescription drug
2 monitoring program as prescribed in St. Louis County Ordinance No. 26,352, 2016,
3 known as the “St. Louis County Narcotics Control Act,” and St Louis County is in the
4 process of developing and/or contracting for this service through an outside vendor; and

5 **WHEREAS**, a regional prescription drug monitoring program will only be
6 effective if the same registry system is used by all Dispensers in the region; and

7 **WHEREAS**, the County Executive has expressed support for consolidating and
8 coordinating prescription drug monitoring services with the City of St. Louis to have a
9 combined prescription drug monitoring program.

10 **BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

11 **SECTION 1. Title of act; scope; certain persons exempt.**

12 1. This Ordinance shall be known as the “City of St. Louis Prescription Drug
13 Monitoring Program” or the “PDMP.”

14 2. The provisions of the PDMP shall not apply to persons licensed pursuant
15 to Chapter 340 of the Revised Statutes of Missouri, a chapter which deals with the
16 licensing of veterinarians.

17 **SECTION 2. Definitions.**

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1 As used in this Ordinance, the following terms shall have the meanings ascribed
2 to them:

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

5 (2) “Department” or “Health Department” means the City of St. Louis Health
6 Department.

7 (3) “Director” means the Director of the City of St. Louis Health Department, or
8 the person or persons duly designated by the Director to carry out the duties of the
9 Director specified in the PDMP.

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

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

16 (b) a practitioner or other authorized person who administers such
17 a substance; or

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1 (c) a wholesale distributor of a Schedule II, III, or IV controlled
2 substance.

3 (5) "Patient" means a person who is the ultimate user of a drug for whom a
4 prescription is issued or for whom a drug is dispensed, not including a hospice patient
5 enrolled in a Medicare-certified hospice program who has controlled substances
6 dispensed to him or her by such hospice program;

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

10 **SECTION 3. Establishment of monitoring program by the Department;**
11 **coordination with St. Louis County Department of Public Health.**

12 1. The Director of the Health Department shall coordinate and cooperate
13 with the St. Louis County Department of Public Health to establish and maintain one
14 PDMP program for monitoring the prescribing and dispensing of all Schedule II, III, and
15 IV controlled substances by professionals licensed to prescribe or dispense such
16 substances in the City of St. Louis and may implement such departmental rules which in
17 the opinion of the Director are necessary to implement such program. The program shall
18 operate so as to be consistent with federal law concerning regulation of narcotics and

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1 with privacy of lawful users of narcotics. The rules may provide for the Director to
2 suspend the requirement of reporting a particular category of information pursuant to
3 subsection 2 of this section, if the Director determines that so reporting will conflict with
4 collection of other reported information by the collection management system of the
5 monitoring program. The rules shall be effective upon approval of the Board of
6 Aldermen.

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

- 12 (a) the pharmacy’s Drug Enforcement (DEA) number;
- 13 (b) the date of dispensation;
- 14 (c) if dispensed via a prescription:
 - 15 (i) the prescription number or other unique identifier;
 - 16 (ii) whether the prescription is new or a refill;
 - 17 (iii) the prescriber’s DEA or National Provider Identifier (NPI)
 - 18 number;

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- 1 (iv) the National Drug Code (NDC) of the drug dispensed;
- 2 (v) the quantity and dosage of the drug dispensed;
- 3 (vi) an identifier for the patient to whom the drug was dispensed,
- 4 including but not limited to any one of the following: a driver's
- 5 license number; the patient's government-issued identification
- 6 number; the patient's insurance cardholder identification
- 7 number; or the patient's name, address, and date of birth.

8 3. The Dispenser's submission of the required information shall be in
9 accordance with transmission standards established by the American Society for
10 Automation in Pharmacy or any of its successor organizations.

11 4. The Director is authorized to issue a waiver of the electronic transmission
12 requirement to a Dispenser demonstrably unable to comply with the requirement. A
13 waiver shall expire one year from the date of its issuance. Required information
14 submitted under a waiver shall be submitted within the same time frame as is required
15 herein for electronic transmission.

16 5. A Dispenser who has not received a waiver of the electronic submission
17 requirement but who, due to unforeseen circumstances, is temporarily unable to transmit
18 dispensation information electronically may upon application to the Director receive an

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1 extension of up to 10 business days in which to submit the required dispensation
2 information by electronic transmission, which extension may be renewed upon
3 subsequent showing of need by the applicant Dispenser.

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

8 **SECTION 4. Dispensation information to be closed pursuant to law.**

9 1. Except when provided to persons or agencies authorized by this chapter to
10 receive such information, dispensation information submitted to the Department or its
11 designee is a closed record and not subject to public disclosure except as provided by
12 law. No person shall provide such information to any person or agency not authorized by
13 this Ordinance or the Department to receive it. A request for dispensation information
14 made under Chapter 610 of the Revised Statutes of Missouri shall be referred to the City
15 Counselor, who shall take all reasonable and lawful steps to ensure nondisclosure of the
16 information.

17 2. The Director shall develop and maintain procedures to ensure that the
18 privacy and confidentiality of patients and personal information collected, recorded,

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- 1 transmitted, and maintained are not disclosed to persons not authorized by this Ordinance
- 2 to receive dispensation information.

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1 **SECTION 5. Director to notify law enforcement or regulatory agency upon**
2 **reasonable belief of a law or professional standards violation.**

3 The Director shall review dispensation information transmitted to the Department
4 or its designee, and if the Director develops a reasonable belief that a violation of law has
5 occurred, or develops a reasonable belief that a breach of professional standards has
6 occurred, the Director shall notify the appropriate law enforcement agency or the
7 appropriate professional licensing, certification, or regulatory agency. The Director may
8 provide any dispensation information requested by such entities when advised that such
9 information is required for conduct of an official investigation.

10 **SECTION 6. Persons authorized to be provided dispensation information.**

11 1. Dispensation information and other data compiled by the Department or
12 its designee in connection with a monitoring program established by the Director may be
13 provided to the following persons upon a duly made request:

14 (1) Persons, whether in or out of the State of Missouri, who are authorized
15 to prescribe or dispense controlled substances, if the requesting person
16 demonstrates that the request is made for the purpose of providing medical or
17 pharmaceutical care for a patient;

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1 (2) Persons who request their own dispensation information in accordance
2 with law;

3 (3) The State Board of Pharmacy;

4 (4) Any state board charged with regulating a professional authorized to
5 prescribe or dispense controlled substances, and which has duly requested the
6 information or data in the course of a current and open investigation into the acts
7 of a professional under the jurisdiction of the state board. Only information
8 related to the subject professional shall be provided by the Director;

9 (5) Local, state, and federal law enforcement or prosecutorial officials,
10 both in or outside of Missouri, who are engaged in the administration,
11 investigation, or enforcement of laws governing prescription drugs based on a
12 specific case and under a subpoena issued pursuant to court order;

13 (6) The MO HealthNet division of the Missouri Department of Social
14 Services regarding MO HealthNet program recipients; or

15 (7) A judge or other judicial officer under a subpoena issued pursuant to
16 court order.

17 2. In addition to the above-specified persons, the Director may provide
18 dispensation information and data to public or private entities for statistical or education

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- 1 purposes; however, the Director shall first delete any information that could reasonably
- 2 be thought usable to identify individual persons.

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1 **SECTION 7. Pharmacists or prescribers not required to obtain information**
2 **from the Health Department.**

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

6 **SECTION 8. Penalties.**

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

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

12 **SECTION 9. Establishment of Prescription Drug Monitoring Program**
13 **Fund.**

14 Upon the passage and approval of this Ordinance, the Comptroller is authorized
15 and directed to establish a fund to be designated as the “Prescription Drug Monitoring
16 Program Fund” for the purpose of helping to fund a Prescription Drug Monitoring
17 System and Prescription Drug Monitoring Program. All interest earned by the funds
18 deposited in such special account shall be retained in the account to be appropriated

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- 1 according to provisions of this Ordinance. All expenditures from such fund shall be
- 2 appropriated in accordance with applicable law.

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1 **SECTION 10. Deposit in Prescription Drug Monitoring Program Fund.**

2 The Comptroller, upon receipt of funds designated for the “Prescription Drug
3 Monitoring Program Fund” shall place said receipted payments in the “Prescription Drug
4 Monitoring Program Fund” established in Section 8 of this Ordinance.

5 **SECTION 11. Severability.**

6 The provisions of this Ordinance are severable. In the event any provision of this
7 Ordinance is determined to be invalid, the remaining provisions shall not be affected,
8 except that in no case shall this Ordinance be valid and enforceable without the
9 confidentiality provisions of Section 4 of this Ordinance.

10 **SECTION 11. Emergency clause.**

11 This being an ordinance for the preservation of public peace, health, and safety, it
12 is hereby declared to be an emergency measure within the meaning of Sections 19 and 20
13 of Article IV of the Charter of the City of St. Louis and therefore shall become effective
14 immediately upon its passage and approval by the mayor.

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