ORDINANCE NO. 17-01

CAPE GIRARDEAU COUNTY PRESCRIPTION DRUG MONITORING PROGRAM ORDINANCE

WHEREAS, the County Commission of Cape Girardeau County, Missouri, under the powers given to the County by the provision of §192.300, RSMo, has authority to promulgate orders, ordinances, rules or regulations to enhance the public health and prevent the entrance of dangerous diseases into the County; and

WHEREAS, prescription drug abuse, in particular opioid, has been recognized as a nationwide epidemic and forty-nine states have established or enacted legislation to establish a prescription drug monitoring program to combat the problem; and

WHEREAS, in the absence of a statewide program in Missouri, various counties and cities are cooperating to institute their own prescription drug monitoring programs; and

WHEREAS, the County Commission has determined that it is in the best interest of public health in Cape Girardeau County to establish a prescription drug monitoring program; and

WHEREAS, it is further declared that the provisions hereinafter set forth and enacted are in pursuance of and for the purpose of promoting the above goal by adopting an ordinance enacting the development and administration of a prescription drug monitoring program in Cape Girardeau County.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE COUNTY OF CAPE GIRARDEAU, MISSOURI AS FOLLOWS:

Cape Girardeau County adopts the attached Prescription Drug Monitoring Ordinance. It is the intention of the Cape Girardeau County Commission that each separate provision of this ordinance shall be deemed independent of all other provisions, herein; and that if any part of this ordinance be declared invalid, all other remaining provisions shall remain valid and enforceable.

ADOPTED AND APPROVED THIS 14th **DAY OF** AUGUST**, 2017.**

Clint Tracy
Presiding Commissioner

Paul Koeper
Associate Commissioner

Charles Herbst
Associate Commissioner

ATTEST:

Kara Clark Summers
County Clerk

ORDINANCE NO. 17-01

PRESCRIPTION DRUG MONITORING ORDINANCE
CAPE GIRARDEAU COUNTY, MISSOURI

Purpose and Applicability

The provisions of this ordinance will 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 Cape Girardeau County; establishing penalties for violations thereof; authorizing the County Commission to accept grants and donations in support of the monitoring program; and appropriating same upon receipt for support of the monitoring program.

In order to enhance the public health and prevent the entrance of dangerous diseases in Cape Girardeau County, the provisions of this ordinance shall apply to all areas in Cape Girardeau County.

The provisions of this ordinance shall not apply to persons licensed pursuant to Chapter 340 RSMo.

Statutory Authority

These provisions are enacted under the authority provided in RSM0 Section 192.300 and serve to enhance the public health and prevent the entrance of dangerous disease into Cape Girardeau County. The County Commission finds on the basis of the legislative record before it that opioid addiction/dependence is a dangerous disease and preventing opioid drug addiction would serve to enhance the public health.

Definitions

The following terms shall have meaning ascribed to them as follows:

Controlled Substance means a drug, substance, or immediate precursor in Schedules II, III, and IV as set out in Chapter 195 RSMo.

Department means St. Louis County Department of Public Health (STLDPH).

Director means the Director of the St. Louis County Department of Public Health, or the person or persons duly designated by the Director to carry out the duties of the Director specified in this ordinance.

Local Public Health Agency (LPHA) means the Cape Girardeau County Public Health Center

Dispenser shall mean (1) pharmacies or pharmacists dispensing Schedule II, III or IV controlled substances to a patient under Chapter 338, RSMo, and (2) physicians, dentists, podiatrists and other health care practitioners or entities dispensing Schedule II, III or IV controlled substances to a patient as authorized by law under Chapter 195, RSMo and applicable professional licensing statutes. However, the term does not include:

a. A hospital as defined in Section 197.020 RSMo 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. Any practitioner or entity subject to the federal rules related to confidentiality of substance use disorder patient records under 42 C.F.R. Part 2;
c. A practitioner or other authorized person who administers such substance; and
d. A wholesale distributor of a Schedule II, III, or IV substance.

Prescriber means a person who is authorized to prescribe Schedule II, III, or IV controlled substances including Physicians and Dentists.

Patient means a person who is the ultimate intended 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.

Schedule II, III, IV controlled substance means a controlled substance listed in Schedules II, III, IV as set out in Chapter 195 RSMo or the Controlled Substance Act 21 U.S. Section 812.

Establishment of a Schedule II, III, and IV Prescription Drug Monitoring Program

Cape Girardeau County shall subscribe to the Department which has established a program to maintain a monitoring program for the prescribing and dispensing of all Schedule II, III, and IV controlled substances by professionals licensed to prescribe or dispense such substances in Cape Girardeau County, and may implement such rules which are necessary to implement such program.

The Department holds the contract. Cape Girardeau County will have a subscription to participate.

This Ordinance gives authority for the Department to receive information from Cape Girardeau County through the online Prescription Drug Monitoring Program system.

The program established and maintained shall operate so as to be consistent with Federal law concerning regulation of narcotics and the privacy of lawful users of same. The Department as operator of the Prescription Drug Monitoring Program may request the County to suspend the requirement of reporting a particular category of information pursuant to subsection 7 of this section, if it is determined that so reporting will conflict with the collection of other reported information by the collection management system of the monitoring program.

Cape Girardeau County Dispensers will submit all required documentation through the Prescription Drug Monitoring program approved by the Department.

Within seven business days of having dispensed a Schedule II, III, or IV controlled substance all dispensing agencies must submit by electronic means, information regarding such dispensing through the approved vendor system.

The information submitted for each dispensing site to the Prescription Drug Monitoring Program shall at a minimum include:

a.) The pharmacy's Drug Enforcement Number (DEA);

b.) The date of dispensing; and

c.) If dispensed via a prescription: the prescription number, whether the prescription is new or a refill; the prescriber's DEA or National Provider (NPI) number; the national drug code of the drug dispensed; the quantity and dosage of the drug dispensed; and identifier for the patient for whom the drugs was dispensed, including but not limited to any one of the following: driver license number, government issued identification number, insurance cardholder identification number, or the patient's name, address, and date of birth, or any other information deemed necessary.

The dispenser's submission of the required information to the Prescription Drug Monitoring Program shall be in accordance with the transmission standards established by the American Society for Automation in Pharmacy, or any of its successor organizations.

All data submitted will be monitored and reviewed by the Director or their appointee.

Non-Disclosure of Information Except as Required By Law

Except when provided to persons or agencies authorized by this Ordinance to receive such information, information submitted to the Prescription Drug Monitoring Program 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 to receive it. A request for information made under Chapter 610 RSMo shall be referred to the Department which shall take all reasonable and lawful steps to ensure non-disclosure of the information except as required by law.

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 by this Ordinance to access or receive information.

Use of Monitoring System by Dispensers not in Cape Girardeau County

The Department shall permit dispensers located in counties other than Cape Girardeau County to participate in the Prescription Drug Monitoring Program and allow data entered to be viewed by dispensers, prescribers, and other registered users as allowed by law. The LPHA will receive aggregate reports that describe prescribing patterns and trends. The LPHA will not have access to individual patient records. All Missouri counties and states participating will have access to data entered by Cape Girardeau County. Permission for access shall be conditional upon the participant complying in all respects with the provisions of the Ordinance.

Notification of Law Enforcement

The Director shall review dispensing information transmitted to LPHA and if the Director 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 shall notify the appropriate law enforcement and / or agency and / or the appropriate professional licensing regulatory agency. The Director may provide any information requested by such entities when advised that such information is required for conduct of an official investigation.

Persons Authorized to be Provided Information

Dispensing information and other data compiled by the Prescription Drug Monitoring Program may be provided to the following persons upon duly made request of the Department:

a.) Persons who are authorized to prescribe or dispense a controlled substance if the requesting person demonstrates that the request is made for the purpose of providing medical or pharmaceutical care for a patient. This includes persons within or outside the state of Missouri.
b.) Persons who request their own information in accordance with the law
c.) The State Board of Pharmacy
d.) Any state board charged with regulating a healthcare 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 a state board. Only information related to the subject professional shall be provided
e.) Local, state, and federal law enforcement, or prosecutorial officials, both inside 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 subpoena issued pursuant to courts order.
f.) The MO HealthNet Division of the Missouri Department of Social Services regarding MO HealthNet program recipients
g.) A judge or other judicial officer under a subpoena issued pursuant to a court order

Enforcement

Any dispenser violating this Ordinance shall be punished by a fine of $100 a day until compliant up to a maximum of $10,000

Acceptance of Grants

The County Commissioners, on behalf of Cape Girardeau County are authorized to accept grants or donations from private or public persons or organizations made in support of the Prescription Drug Monitoring Program authorized by this Ordinance.

Revisions or Revocation of Ordinance

If the County Commissioners find the provisions of the Prescription Drug Monitoring Program Ordinance are substantially similar to a statute of the State of Missouri regulating the same subject, the County Commissioners by order may suspend any or all of the provisions of this Ordinance, revoke or repeal the Ordinance in whole, or amend the Ordinance as necessary.

It is the intention of the Cape Girardeau County Commission that each separate provision of this ordinance shall be deemed independent of all other provisions, herein; and that if any part of this ordinance be declared invalid, all other remaining provisions shall remain valid and enforceable.