



**Contra
Costa
County**

To: Board of Supervisors
From: FAMILY & HUMAN SERVICES COMMITTEE
Date: December 13, 2016

Subject: Introduction of Ordinance No. 2016-24, establishing a pharmaceutical drug stewardship program in the unincorporated area

RECOMMENDATION(S):

1. INTRODUCE Ordinance No. 2016-24, which would require drug manufacturers to establish a stewardship program for the collection and disposal of unwanted drugs, WAIVE reading, and FIX December 20, 2016, for adoption.
2. DIRECT the Public Health Director to advocate the adoption of similar ordinances by the cities and towns in this county.
3. DIRECT the Public Health Director to consult with representatives of the drug manufacturers to be subject to Ordinance No. 2016-24 regarding the process for compliance with its terms.
4. DIRECT the Public Health Director to prepare and present a report to the Board on the status of implementation of Ordinance No. 2016-24, including city and town ordinance adoptions and manufacturer responses, by June 6, 2017.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **12/13/2016** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Mary N. Piepho, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: December 13, 2016

David Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

Contact: Enid Mendoza, (925)
335-1039

FISCAL IMPACT:

There is no anticipated impact to the County general fund. The proposed Safe Drug Disposal Ordinance would require the producers of covered drugs to fully fund the administrative and operational cost of an approved product stewardship program for the safe disposal of prescription drugs. Revenue from proposed fees to be paid by producers would cover costs incurred by the County health officer related to the inspection of stewardship plans and any related investigation, audits, enforcement and adjudication.

BACKGROUND:

On April 27, 2010, the Board adopted a resolution supporting Extended Producer Responsibility. It was noted that local governments do not have the resources to adequately address the rising volume of discarded products and that there are significant environmental and health impacts associated with improper management of universal wastes, sharps and other products.

Extended producer responsibility (EPR) laws, sometimes referred to as product stewardship laws, assign responsibility for end-of-product life management of consumer products on the manufacturers of those products. Despite association between prescription opioid sales and the increase in accidental deaths from drug overdose there is currently no mandatory statewide drug stewardship program for unwanted household drugs in California.

In March 2012, Supervisor Mary Piepho presented a resolution to the Board declaring March as “Prescription Drug Abuse Awareness Month.” Comment was made regarding the importance of safely storing and disposing of medications. Subsequently, at an April 28, 2012, Prescription Drug Take Back event, Supervisor Piepho noted that her office was working with County departments to review and evaluate a “Safe Medication Disposal” ordinance for Contra Costa County.

On March 3, 2015, the Board adopted a resolution recognizing March as Prescription Drug Awareness month to bring attention to the seriousness and significance of deaths associated with the misuse of prescription drugs. Supervisor Candace Andersen referenced the importance of disposing unwanted medications when they are no longer needed and Supervisor Piepho indicated that she hoped the County would soon be able to adopt a safe drug disposal ordinance, following Alameda County’s lead.

December 6, 2016 Board meeting

On December 6, 2016, a proposed Safe Drug Disposal Ordinance was presented to the Board for consideration. At the Board meeting, several public speakers urged the Board to expand the reach of the ordinance to include non-prescription drugs. The Board continued the item to December 13, 2016, to allow time for further staff study of problems related to non-prescription drugs in the unincorporated area that might be addressed by a revised ordinance.

Public Health staff has gathered data and other material relevant to the use of non-prescription drugs and determined that confirms that the unintentional consumption of non-prescription drugs by children in Contra Costa County is a significant problem. In 2015, 2,800 of 6,500 calls from within Contra Costa County to the State Poison Control Center involved children under 5 who had unintentionally overdosed on prescription or non-prescription drugs. The most common non-prescription drugs resulting in calls to the State Poison Control Center were ibuprofen, acetaminophen, antihistamines and dextromethorphan, a cough suppressant in many cough syrups. Consistent with the above findings, proposed Ordinance No. 2016-24 has been revised to require drug manufacturers to establish programs to take back both prescription and non-prescription medication.

Ordinance Development

Additional background about the development of this ordinance is included in the December 6, 2016, Board Order from the Family and Human Services Committee.

Summary of Ordinance

The proposed ordinance, which is similar to ordinances adopted by other counties, would require drug manufacturers to establish and pay for a collection system. The goal would be to establish at least three drop-off sites in each of the five supervisorial districts in locations that allow for convenient and equitable access by residents of the unincorporated areas of those districts. If achievement of this goal is not feasible in a supervisorial district, the stewardship program would need to provide for a mail-back service and periodic take-back events that are at least six hours in length, held at least once per quarter and located in at least three locations in the district.

Under the proposed ordinance, preference would be given to having retail pharmacies and law enforcement agencies serve as collectors. In addition, mail-back services would need to be made available to individuals who are disabled or homebound.

If adopted, the proposed ordinance would require the producer of a covered drug to submit a product stewardship plan to the County health officer, describing how it would provide for the disposal options described above. Covered drugs include both prescription and non-prescription drugs. The proposed ordinance would allow a producer to satisfy its obligations either individually or jointly with other producers, in the form of a stewardship organization. As drafted, the ordinance would require producers to provide notice to all retail pharmacies and all law enforcement agencies located in the County of the opportunity to participate as collectors.

Enforcement

Section 53069.4 of the Government Code authorizes the County to impose administrative fines for violation of any ordinance. This statute authorizes administrative fines of \$100

for a first violation, \$200 for a second violation within one year and \$500 for a third violation within a year. Acts or omissions in violation of an ordinance that continue from day to day would be considered separate violations on each day. For example, a producer's failure to file a timely stewardship plan would subject the producer to a \$100 fine the first day, \$200 fine the second day and \$500 every day thereafter until the plan is filed. If the violation continued for 30 days, the fine would be \$14,300.

The above administrative fine amounts are identical to the fines for criminal infractions. However, administrative fines are imposed administratively as opposed to prosecuting a violator in criminal court. Proposed Ordinance No. 2016-24 has been revised to include provisions for administrative fines.

As with other County ordinances, Ordinance No. 2016-24 could also be enforced under Division 14 of the County Ordinance Code. Under Chapter 14-8, a violation of Ordinance No. 2016-24 would be a criminal infraction, punishable by fines in the same amounts stated above, including fines for continuing violations. Infraction fines are set by statute. (Gov. Code, § 25132, subd. (b.)) Ordinance No. 2016-24 would amend Section 14-8.008 of the County Ordinance Code to authorize the Health Services director to issue infraction citations to violators of Ordinance No. 2016-24.

CONSEQUENCE OF NEGATIVE ACTION:

If Ordinance No. 2016-24 is not introduced, the proposed drug stewardship program would not go into effect.

CLERK'S ADDENDUM

Speakers: Andria Ventura, Clean Water Action; Melody LaBella, CCC Central Sanitation District; Angela Lowrey, Delta Diablo; Sue A. Stephenson, Dublin San Ramon Service District; Heide Sanborn, California Product Stewardship Council; Steve Linsley, West County Wastewater District; Jaime Rich, CCC MEDS Coalition (handout attached); Patty Hoyt, CCC MEDS Coalition (handout attached). The following did not wish to speak but left written comments for the Board's consideration (attached): Nabila Sher, Alcohol, Marijuana Prescription Drug Coalition.

ATTACHMENTS

Ordinance 2016 clean

Ordinance 2016 Redline