

Memorandum



(Second Reading 06-05-07)

Date: April 24, 2007

To: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

Agenda Item No. 7(G)

From: George M. Burges
County Manager

Subject: Ordinance Amending Sections 2-1101 through 2-1104 of the Code of Miami-Dade County Concerning the Miami-Dade HIV/AIDS Partnership

0#07-71

RECOMMENDATION

It is recommended that the Board approve the attached ordinance amending sections 2-1101 through 2-1104 of the Code of Miami-Dade County, Florida concerning the Miami-Dade HIV/AIDS Partnership (hereafter referred to as "the Partnership"). The proposed amendments are necessary to comply with changes to federal requirements included in the Ryan White HIV/AIDS Treatment Modernization Act of 2006, and include revisions to membership requirements; renaming the federal legislation's new title and component parts; and revising certain membership term limits.

SCOPE

The impact of this ordinance is countywide as the Partnership is responsible for priority setting and funding allocation decisions regarding HIV/AIDS services for all of Miami-Dade County.

FISCAL IMPACT

The proposed changes to the ordinance will not create a fiscal impact on Miami-Dade County.

TRACK RECORD/MONITOR

Not applicable.

BACKGROUND

In 1998, the Board of County Commissioners (BCC) created the Partnership to determine the HIV-related needs of the community, to establish service priorities, and to allocate funding to the areas of greatest need as defined by the Federal granting agency, the U.S. Health Resources and Services Administration. The Partnership evolved from the Miami-Dade County HIV Health Services Planning Council, which was established in 1994 in order to meet Federal funding requirements under Title I of the Ryan White Comprehensive AIDS Resources Emergency (C.A.R.E.) Act. The Partnership is dedicated to HIV/AIDS prevention, care and treatment, and housing services that fulfill the requirements of various state and Federal HIV/AIDS grant programs.

The Ryan White C.A.R.E. Act was re-authorized and signed into law by President George W. Bush on December 19, 2006 and has been re-named as the Title XXVI of the Public Health Service (PHS) Act as amended by the Ryan White HIV/AIDS Treatment Modernization Act of 2006 (hereinafter called the

"Ryan White Program" (Section 2-1101)). Similarly, different Titles of the old CARE Act (Titles I through V) have been changed to Parts (Part A through F). This change is also reflected throughout the proposed ordinance. Another change proposed throughout the ordinance and recommended by the federal granting agency, is the replacement of all mention of "infected" community member to "affected" community member. Finally, the Code of Miami-Dade County (Section 2-1102) requires that the membership of this board be representative and reflective of the demographics and geographic distribution of the HIV epidemic in our community and of disproportionately affected or historically underserved populations. Among these groups are the formerly incarcerated and youth (ages 13-24).

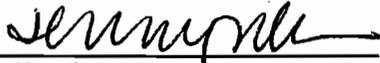
The Formerly Incarcerated – National and local studies have shown that twenty-five percent (25%) of all people living with HIV or AIDS will pass through a correctional facility. Recognizing the need to have representation of the formerly incarcerated on HIV planning bodies nationwide, the United States Congress included in the 2006 Ryan White Program the requirement that one of the members of each planning council be a former inmate of a local, state, or Federal prison released from the custody of the penal system during the preceding three years and who had HIV disease as of the date of his/her release, or a representative of HIV+ incarcerated persons. In order for Miami-Dade County to meet this Federal requirement, it is necessary to waive the prerequisite for membership stated in Section 2-11.38 of the Code of Miami-Dade County, which requires that board members be qualified electors. The application of the elector requirement of Section 2-11.38 to this seat would be a violation of federal law. Therefore, the proposed ordinance clarifies this by exempting this seat from the County's requirement.

Youth (Ages 13-24) – In 2006, approximately 8.9 percent of Miami-Dade County's living HIV/AIDS cases were found among youths between the ages of 13 and 24. In 2002, the BCC amended the ordinance to include a Partnership seat for a youth representative, ages 13-24. However, a youth representative has been difficult to recruit. Among the federally required Partnership membership categories, the Ryan White Program requires the participation of a grantee representative of Part D of the Ryan White Program, an organization with a history of serving children, youth, and families living with HIV and operating in the EMA. The Partnership has met this requirement as it presently has a seat designated for a Part D grantee and the Partnership has verified that, in light of the difficulty recruiting a youth to serve on the board, HRSA would approve the Part D member as able to represent that population. Therefore, the proposed ordinance removes the designated youth seat.

In addition to these changes, the proposed membership changes in Section 2-1102 consolidate a number of Ryan White Program grantee seats (Part A [Title I], B [Title II], C [Title III], D [Title IV], and F [Title V] of the Ryan White Program) more closely aligning with new federal requirements and also reflect the addition of two new federally mandated seats: One (1) representative of a federally recognized Indian tribe as represented in the population from the affected community and one (1) representative co-infected with Hepatitis B or C from the affected community.

Presently, the term limit for members of the Partnership is three years as stated in the Code of Miami-Dade County. Members can be reappointed by the Mayor for a second term. Thereafter, they are required to take a two year hiatus before they can serve again on the Partnership. Of the thirty-nine (39) seats on the Partnership five (5) are designated to grantees and federal, state, or local governments. An application of the term limit to these seats presents a difficult challenge to the County since oftentimes the representatives filling these seats are the sole representative of the respective grantee or governmental agency. Thus, when their term limit has expired there is no one else to fill their position. This presents a significant problem for the County since it is required by law to have representation from these entities. Consequently, one final proposed change to the ordinance is the

granting of an exemption from the term limits for grantee or governmental seats in order to ensure their representation and to comply with the Ryan White Program requirements.



Jennifer Glazer-Moon
Director, Office of Strategic Business Management

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MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: June 5, 2007

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Agenda Item No. 7(G)

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved _____ Mayor
Veto _____
Override _____

At _____ la Item No. 7(G)
06-05-07

ORDINANCE NO. 07-71

ORDINANCE AMENDING SECTIONS 2-1101 THROUGH 2-1104 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA CONCERNING THE MIAMI-DADE HIV/AIDS PARTNERSHIP; REVISING MEMBERSHIP REQUIREMENTS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 2-1101 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 2-1101. Creation and purpose.

There is hereby created and established the Miami-Dade HIV/AIDS Partnership (hereinafter referred to as the "Partnership"). The Partnership's purpose is to enable the County and other governmental entities to apply for, receive, plan for, assess, and allocate financial assistance under the ~~[[Ryan White Comprehensive AIDS Resources Emergency (CARE) Act, CARE Act Amendments of 1996 and 2000, HIV Prevention and Surveillance Cooperative Agreements; Healthy Communities 2000 Objectives]]~~ >>Title XXVI of the Public Health Service Act as amended by the Ryan White HIV/AIDS Treatment Modernization Act of 2006 (hereinafter called the "Ryan White Program"), Healthy Communities 2010 Objectives<<, AIDS Housing Opportunity Act, and Housing and Community Development Act of 1992, State of Florida General Revenue Care and Treatment Allocations, and other HIV/AIDS related funding as it becomes available; and to advise the Board of County Commissioners, the Mayor, and other governmental entities on HIV/AIDS related issues. Except where Federal or State laws

¹ Words stricken through and/or ~~[[double bracketed]]~~ shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

or regulations mandate to the contrary the provisions of this article shall apply.

Section 2. Section 2-1102 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows

Sec. 2-1102. Membership requirements; appointment of members; terms; removal.

(a) >>All members of the Partnership shall be permanent residents and electors of Miami-Dade County, unless the Board of County Commissioners, by a two-thirds vote of its membership, waives this requirement and shall have reputations for integrity and community service. Notwithstanding the qualified elector requirement stated herein, applicants for or members of the Partnership who are appointed to fill the seat of a former inmate of a local, state, or federal prison as described in Section 2-1102 (23) of this code shall be exempt from the qualified elector requirement set forth herein.<<

(b) The Partnership shall be composed of ~~[[thirty nine (39)]]~~ >>thirty-eight (38)<< voting members from the following categories of representatives:

(1) ~~[[Thirteen (13) members who are HIV+ representing the infected community, who are not affiliated or employed by a Title I funded provider and are recipients of Title I services;]]~~ >>Fifteen (15) member representatives of affected communities that include individuals with HIV disease, who are not affiliated or employed by a Part A funded provider and are recipients of Part A services, and historically underserved groups and subpopulations that reflect the demographics of the population within the eligible metropolitan area, and constitute;<<

* * *

(4) ~~[[One (1) Social service provider]]~~ >>Two (2) Housing, Homeless or Social Service providers<<;

* * *

- (9) One (1) representative from agencies receiving grants under ~~[[Title III]]~~ >>Part C<< of the ~~[[CARE Act]]~~ >>Ryan White Program<<;
- (10) One (1) representative from agencies receiving grants under ~~[[Title IV]]~~ >>Part D<< of the ~~[[CARE Act]]~~ >>Ryan White Program<<, or from organizations with a history of providing services to children, youth, and families if funded locally;
- ~~(11) [[One (1) representative from the federally funded AIDS Education and Training Centers program if funded locally;~~
- ~~(12) One (1) representative from agencies receiving grants under the federally funded Special Projects of National Significance program if funded locally;~~
- ~~(11) One (1) representative from the federally funded AIDS Dental Reimbursement program if funded locally]] >>Four (4) grantee representatives of Other Federal HIV programs including Ryan White Program Part F and HOPWA, if funded locally;<<~~
- ~~[[14) One (1) Housing or homeless provider and one (1) City of Miami grantee;~~
- ~~(15)] >>(12)<<One (1) [[Miami-Dade County representative]] >> Ryan White Program Part A local grantee<< ;~~
- ~~[[16)] >>(13)<<One (1) State government/[[CARE Act Title II]] >>Ryan White Program Part B<< grantee representative;~~
- ~~[[17)] >>(14)<<One (1) State government/Medicaid Agency representative;~~
- ~~[[18)] >>(15)<<One (1) Local public health agency representative from the Miami-Dade County Health Department;~~
- ~~[[19)] >>(16)<< One (1) Miami-Dade County Public Schools representative;~~
- ~~[[20)] >>(17)<< One (1) Non-elected community leader who does not provide HIV related health care services subject to funding under Partnership programs;~~

~~[[(21) Three (3) Community leaders, representing affected communities, who do not provide HIV related health care services subject to funding under Partnership programs. One (1) seat is specified for a caregiver of an infected child. One (1) seat is specified for an elderly (50 and over) person infected/affected by HIV/AIDS;~~

~~(22) One (1) youth (13-24) member from the affected community;~~

~~(23)]>>(18)<<One (1) former inmate of a local, state, or federal prison released from the custody of the penal system during the preceding three (3) years and had HIV disease as of the date of his release, or a representative of HIV+ incarcerated persons;~~

~~[[(24)]>>(19)<<One (1) State of Florida General Revenue grantee representative[.]]>>;~~

(20) One (1) representative of a federally recognized Indian tribe as represented in the population from the affected community;

(21) One (1) representative co-infected with hepatitis B or C from the affected community.<<

* * *

(c) ~~[[Six (6)]>>Three (3)<< representatives of the [[infected]]>>affected<< community who are not affiliated or employed by a [[Title I]]>>Part A<< funded provider, and are recipients of [[Title I]]>>Part A<<services shall also be appointed as alternates. [[Alternate members will also be appointed for the City of Miami, Miami Dade County, State Government/Title II, Local Public Health Agency, Miami Dade County Public Schools, Office of the Mayor of Miami Dade County, Board of County Commissioners, and the State of Florida General Revenue grantee categories of representatives.]]~~ Alternate members may be assigned as voting members of committees, but are non-voting members of the full Partnership except when the voting member appointed to that category of representatives is unable to serve, at which time an alternate member of the same category of representatives designated by the chairperson shall serve as voting member for the full Partnership.

* * *

- (e) Vacancies on the Partnership shall be filled in the same manner as above, except for ~~[[infected]]~~ >>affected<< community positions, which may be filled by an ~~[[infected]]~~ >>affected<< community alternate member appointed by the Partnership.

* * *

- (h) No member shall be permitted to serve more than two (2) consecutive and complete terms of three (3) years except as required by law. >>Notwithstanding the term limit requirements set forth herein, members appointed to fill government or grantee seats are excepted from these requirements and shall serve as members of the Partnership for as long as they are designated by their respective agencies to serve in this capacity.<<

Section 3. Section 2-1103 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows

* * *

- (i) Each committee shall strive to maintain no less than one-third (1/3) membership by representatives of the >>affected<< ~~[[/infected]]~~ community.

Section 4. Section 2-1104 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows

Sec. 2-1104. Powers and duties.

The Partnership shall have the following powers, duties, functions and responsibilities:

* * *

- (d) Establish priorities for the allocation of ~~[[Title-]]~~ >>Part A<< funds within the County, including how best to meet each such priority and individual factors that the County should consider in allocating funds under ~~[[Title-I]]~~ >>Part A<< of the Ryan White ~~[[CARE Act]]~~ >> Program <<, based on the:
 - (1) Documented needs of the ~~[[HIV-infected]]~~ population >>affected by HIV/AIDS<< within the County;

- (2) Cost and outcome effectiveness of proposed strategies and interventions, to the extent that such data are reasonably available;
 - (3) Priorities of the ~~[[HIV-infected]]~~ communities ~~>>affected~~ by HIV/AIDS ~~<<for whom the services are intended; and~~
 - (4) Availability of other governmental and non-governmental resources.
- (e) Make recommendations for service priorities for the use of other funds, to the areas of greatest need, with equal weight and attention provided to HIV/AIDS prevention, health and supportive services, and housing, including but not limited to the use of the following funding sources:
- (1) ~~[[Title H]]~~ ~~>>Part B~~ ~~<<of the Ryan White [[CARE Act]]~~ ~~>>Program~~ ~~<<~~.
 - ~~[[2]]~~ ~~>>~~ ~~<<~~ ~~Federal HIV Prevention and Surveillance Cooperative Agreements.~~
 - ~~(3)]~~ ~~>>~~ ~~(2)~~ ~~<<~~ Housing Opportunities for Persons with AIDS program.
 - ~~[[4]]~~ ~~>>~~ ~~(3)~~ ~~<<~~ State of Florida General Revenue Care and Treatment funding.
 - ~~[[5]]~~ ~~>>~~ ~~(4)~~ ~~<<~~ Other federal and state grants
 - ~~[[6]]~~ ~~>>~~ ~~(5)~~ ~~<<~~ Funding from municipalities interested in supporting implementation of the Partnership's Comprehensive Plan.
 - ~~[[7]]~~ ~~>>~~ ~~(6)~~ ~~<<~~ Private Foundation grants.
 - ~~[[8]]~~ ~~>>~~ ~~(7)~~ ~~<<~~ Private contributions.
- * * *
- (g) Participate in the development of the Statewide Coordinated Statement of Need initiated by the State of Florida's public health agency responsible for administering grants under the Ryan White ~~[[CARE Act]]~~ ~~>>~~ Program ~~<<~~

- (h) Establish procedures within the Partnership's By-Laws for addressing grievances with respect to ~~[[Title I]]~~ >>Part A<<funding and any other matter deemed appropriate by the Partnership, including >>but not limited to<< procedures for submitting grievances for ~~[[Title I]]~~ >>Part A<<allocations that cannot be resolved ~~[[to]]~~>>by<< binding arbitration as required by the Ryan White ~~[[CARE Act Amendments]]~~ >>Program<< Grievance procedures developed by the Partnership shall be submitted for review and approval to the appropriate federal agency. Upon approval, these procedures shall become the sole dispute resolution mechanism and shall take precedence over all other County dispute resolution mechanisms, including but not limited to the County bid protest procedures.

* * *

- (j) Those powers and duties granted by the ~~[[Ryan White Comprehensive AIDS Resources Emergency (CARE) Act, CARE Act Amendments of 1996 and 2000, HIV Prevention and Surveillance Cooperative Agreements, Healthy Communities 2000 Objectives]]~~ >>Ryan White Program, Healthy Communities 2010 Objectives<<, AIDS Housing Opportunity Act, and Housing and Community Development Act of 1992, and State of Florida General Revenue Care and Treatment Allocations as presently exist or as may be amended.

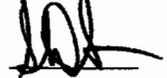
Section 5. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 6. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 7. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED: June 5, 2007

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Terrence A. Smith