



MEMORANDUM

Agenda Item No. 8(C)(1)(A)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: September 20, 2011

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution approving amendments
to implementing order 4-107
relating to the fee schedule for
the consumer services department

Resolution No. R-730-11

The accompanying resolution was prepared by the Consumer Services Department and placed on the agenda at the request of Prime Commissioner Barbara J. Jordan.

A handwritten signature in black ink, appearing to read "RAC", written over a horizontal line.

R. A. Cuevas, Jr.
County Attorney


RAC/up

Memorandum



Date: September 20, 2011

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Amendment to Implementing Order 4-107: Fee Schedule for the Consumer Services Department adding registration fees for Pain Clinics

Recommendation

It is recommended that the Board approve the attached resolution amending Implementing Order 4-107: Consumer Services Department Fee Schedule to add application fees, registration fees, late fees and registration certificate replacement fees for Pain Clinics.

Scope

The fee schedule is countywide.

Fiscal Impact/Funding Source

The estimated revenue from the proposed registration requirement for pain clinic operators is \$122,000 in the first year, and \$110,000 thereafter. This is based on a projected 109 initial applicants, with an estimated 93 meeting registration requirements and being approved to register. Expense associated with the ordinance will be supported by these fees.

Track Record/Monitor

The Consumer Services Department (CSD) will administer the County's Pain Clinic registration regulations.

Background

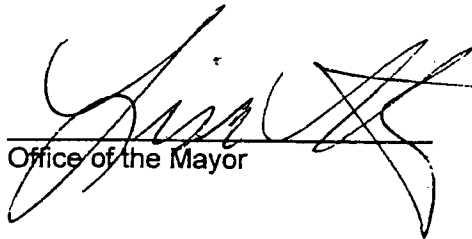
On August 2, 2011, the Board approved ordinance no. 11-61 (see attached), requiring the registration of Pain Clinics and Pain Management Clinics, as defined by Florida Statutes, within 90 days of its effective date. CSD will be required to establish and maintain a registration process, a database of clinics, and enforce the regulations.

Registration will require proof of various federal, state and local licenses; designation of a responsible licensed physician; all physicians associated with the clinic; ownership of other clinics; medical licenses; and background checks to ensure that physicians have not been convicted of, or pled guilty or nolo contendere to various offenses. CSD must make a determination whether or not the applicant meets the registration criteria within 30 days of receipt. If the application is incomplete, the CSD must notify the applicant and provide them with 15 days to correct. If the application is denied, the applicant can appeal to the CSD Director or designee within 15 days of such decision. CSD will conduct hearing within 20 days and render a decision within 15 days of the hearing.

Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners
Page 2

The ordinance will also establish a temporary moratorium on pain clinics that are not registered with the State of Florida Department of Health as of its effective date. The moratorium expires upon enactment of any new ordinance or resolution addressing complaints (based on Task Force recommendations) or 180 days from the effective date.

The Pain Clinic Task Force will be comprised of one member from each of the following: Miami-Dade County Addiction Services Board; Nuisance Abatement Board; Consumer Services Department; Miami-Dade Police Department; and the Planning and Zoning Department. The Mayor or designee will provide staffing to support the Task Force. The ordinance will require the Task Force, within 120 days from the effective date to provide recommendations on the following: the effectiveness of state legislation addressing complaints about pain clinics; whether or not the County needs to take further action to address these complaints; and addressing these complaints, if required, through the areas of zoning, regulatory, and enforcement.



Office of the Mayor



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: September 20, 2011

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 8(C)(1)(A)

Please note any items checked.

- "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
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

4

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(C)(1)(A)
9-20-11

RESOLUTION NO. R-730-11

RESOLUTION APPROVING AMENDMENTS TO
IMPLEMENTING ORDER 4-107 RELATING TO THE
FEE SCHEDULE FOR THE CONSUMER SERVICES
DEPARTMENT

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that the Board approves the amendments to Implementing Order 4-107 relating to the fee schedule for the Consumer Services Department as set forth in the aforesaid Implementing Order.

The foregoing resolution was offered by Commissioner **Barbara J. Jordan**, who moved its adoption. The motion was seconded by Commissioner **Dennis C. Moss** and upon being put to a vote, the vote was as follows:

| | | |
|----------------------|-------------------------------------|---------------------------------|
| | Joe A. Martinez, Chairman | aye |
| | Audrey M. Edmonson, Vice Chairwoman | aye |
| Bruno A. Barreiro | aye | Lynda Bell aye |
| Esteban L. Bovo, Jr. | aye | Jose "Pepe" Diaz aye |
| Sally A. Heyman | aye | Barbara J. Jordan aye |
| Jean Monestime | aye | Dennis C. Moss aye |
| Rebeca Sosa | aye | Sen. Javier D. Souto aye |
| Xavier L. Suarez | absent | |

The Chairperson thereupon declared the resolution duly passed and adopted this 20th day of September, 2011. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.



MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

Christopher Agrippa

By. _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in black ink that reads "KMC".

Karon M. Coleman

I.O. No.: 4-107
Ordered: 09/18/2009
Effective: 10/01/2009

MIAMI-DADE COUNTY
IMPLEMENTING ORDER

FEE SCHEDULE FOR THE CONSUMER SERVICES DEPARTMENT

AUTHORITY:

The Miami-Dade County Home Rule Charter, including among others Sections 1.01 and 2.02A; Chapter 4, Articles I and III; Chapter 8A, Articles III, VIIA, XVI, XVII, XVIII; Chapter 8AA, Article II; Chapter 30, Section 30-372.1 and Article III; Chapter 31; and Chapter 11A, Article IX of the Code of Miami-Dade County.

SUPERSEDES:

This Implementing Order supersedes Implementing Order 4-107, ordered ~~September 18, 2008~~ and effective ~~October 1, 2008~~.

POLICY:

This Implementing Order establishes a schedule of fees to be assessed and collected by the Consumer Services Department to cover the cost of processing permits, licenses, registrations, limited authorizations, certificates, decals and applications; performing inspections; and providing other services.

FEE SCHEDULE:

The fee schedule adopted by this Implementing Order is attached hereto and made a part hereof.

This Implementing Order is hereby submitted to the Board of County Commissioners of Miami-Dade County, Florida.

County Mayor

Approved by the County Attorney as
to form and legal sufficiency

Consumer Services Department Fee Schedule

The following regulatory and application fees are non-refundable, unless otherwise stated, and are separate from any occupational license fee that may be applicable.

I. AMBULANCE – Chapter 4 – Article I

The following fees pertain to Advanced Life Support and/or Basic Life Support ground or air ambulance transport services. The triennial expiration date for private ambulance Certificates is December 31st of each third calendar year following the enactment of Code modifications in the Year 2000.

- | | | |
|---|----|----------|
| A. Initial application fee for a Certificate of Public Convenience and Necessity by a private provider. | \$ | 1,500.00 |
| B. Application fee for the sale, transfer or change in ownership structure of a certificate of Public Convenience and Necessity by a private provider. | \$ | 1,500.00 |
| C. Application fee to modify the terms, conditions, provisions or limitations of a Certificate of Public Convenience and Necessity by a private provider. | \$ | 1,200.00 |
| D. Applicants submitting a single application for more than one (1) category above must pay the greater fee applicable as the sole prevailing fee. | | |
| E. Triennial renewal application fee for a Certificate of Public Convenience and Necessity by a private provider. | \$ | 1,500.00 |
| F. Annual permit fee for each transport vehicle operated by a private provider. | \$ | 625.00 |

II. LOCKSMITH – Chapter 8A – Article XVII

The following fees shall be in effect through September 30, 2008. On October 1, 2008 and each October 1 thereafter, the fees shall be increased by the percentage increase in the Consumer Price Index during the preceding year, rounded up to the nearest \$5 increment.

- | | | |
|--|----|--------|
| A. Locksmith Business Registration | | |
| 1) Initial and Annual Renewal Registration Fee (per business location) | \$ | 300.00 |

Initial registration fees shall be prorated according to the number of days remaining between the date of registration issuance and the date of birth of the applicant, if the applicant is a sole proprietor, or in the case of a corporation or partnership, from the date of formation of the legal entity.

- 2) Late Fee for renewal of registration after expiration date (in addition to Renewal Fee)

50% of Initial and Annual Renewal Fee

- 3) Replacement of Registration Certificate \$ 15.00

B. Locksmith Certificate and Permit

The following fees shall be in effect through September 30, 2009. On October 1, 2009 and each October 1 thereafter, the fees shall be increased by the percentage increase in the Consumer Price Index during the preceding year, rounded up to the nearest \$1 increment.

Permits and certificates shall take effect on the date they are approved by the Director.

1) Apprentice Permit

- a) Initial and Annual Renewal Fee \$ 20.00

- b) Late Fee for Renewal of permit after expiration date (in addition to Renewal Fee)

50% of Initial and Annual Renewal Fee

- c) Replacement of Apprentice Permit \$ 15.00

2) Certified Locksmith Certification

- a) Initial and Annual Renewal Fee \$ 30.00

- b) Late Fee for Renewal of Certification after expiration date (in addition to Renewal Fee)

50% of Initial and Annual Renewal Fee

- c) Replacement of Certified Locksmith Certification \$ 15.00

III. MOTOR VEHICLE REPAIR – Chapter 8A – Article VIIA

Registrations, certificates, and permits shall take effect on the date they are approved by the Director.

A. Motor Vehicle Repair Shop Registration

The following fees shall be in effect through September 30, 2009. On October 1, 2009 and each October 1 thereafter, the fees shall be increased by the percentage increase in the Consumer Price Index during the preceding year, rounded up to the nearest \$5 increment.

- | | | |
|--|----|--------|
| 1) Initial and Annual Renewal Fee (per business location) | \$ | 250.00 |
| 2) Late Fee for Renewal of Registration after Expiration (in addition to Renewal Fee) | | |
| 50% of Initial and Annual Renewal Fee | | |
| 3) Replacement of Registration | \$ | 15.00 |

B. Mechanic/Technician Certificate or Apprentice Permit

The following fees shall be in effect through September 30, 2009. On October 1, 2009 and each October 1 thereafter, the fees shall be increased by the percentage increase in the Consumer Price Index during the preceding year, rounded up to the nearest \$1 increment.

- | | | |
|---|----|-------|
| 1) Apprentice Permit or Certificate for Specialty or Master Mechanic, Motor Vehicle Body Repair Technician, or Motor Vehicle Paint Technician | | |
| a) Initial and Annual Renewal Fee | \$ | 30.00 |
| b) Late Fee for Renewal of Certificate after Expiration (in addition to Renewal Fee) | | |
| 50% of Initial and Annual Renewal Fee | | |
| c) Replacement of Certificate | \$ | 15.00 |

IV. MOVING – Chapter 8A - Article XVI

The following fees shall be in effect through September 30, 2008. On October 1, 2008 and each October 1 thereafter, the fees shall be increased by the percentage increase in the Consumer Price Index during the preceding year, rounded up to the nearest \$5 increment.

- | | | |
|--|----|--------|
| A. Initial and Annual Renewal Registration Fee | \$ | 400.00 |
| Initial registration fees shall be prorated according to the number of days remaining between the date of registration issuance and the date of birth of the applicant, if the applicant is a sole proprietor, or in the case of a corporation or partnership, from the date of formation of | | |

the legal entity.

- B. Late Fee for Renewal of Registration
after Expiration (in addition to Renewal Fee)

50% of Initial and Annual Renewal Fee

- C. Replacement of Registration Certificate \$ 15.00
- D. Moving Decal Fee \$ 30.00

V. TOWING – Chapter 30 – Article - III

The following fees are non-refundable; however, license and decal fees paid for additional trucks which have not been inspected by the Consumer Services Department shall be refunded if the licensee withdraws the truck prior to inspection.

The following fees shall be in effect through September 30, 2003. On October 1, 2003 and each October 1 thereafter, the fees shall increase by the percentage increase in the Consumer Price Index during the preceding year, rounded up to the nearest \$5 increment.

A. Towing Company License Fees

1) Initial and Annual Renewal Fee

Initial license fees shall be prorated according to the number of days remaining between the date of license issuance and the date of birth of the applicant, if the applicant is a sole proprietor, or in the case of a corporation or partnership, from the date of formation of the legal entity.

- a) Company with one tow truck \$ 300.00
(includes one truck decal)
- b) Each additional truck \$ 100.00

**2) Late Fee for Renewal of License of company
after expiration (in addition to Renewal Fee)**

50% of Initial and Annual Renewal Fee

- 3) Replacement of License \$ 15.00

B. Tow Truck Decal Fees

- 1) Initial and Renewal Fee \$ 50.00
for each additional Tow Truck

- 2) Replacement of Decal \$ 35.00

VI. WATER REMETERING – Chapter 8A – Article XVIII

**A. Initial and Annual Renewal Registration Fee
(Per Unit)**

- 1) Owner of Remetered Property \$ 5.00

The following fees shall be in effect through September 30, 2008. On October 1, 2008 and each October 1 thereafter, the fees shall be increased by the percentage increase in the Consumer Price Index during the preceding year, rounded up to the nearest \$5 increment.

- 2) Remeterer \$ 250.00

**B. Late Fee for Renewal of Registration
after expiration date (in addition to Renewal Fee)**

50% of Initial and Annual Renewal Registration Fee

- C. Replacement of Registration Certificate \$ 15.00

VII. SHOPPING CART – Chapter 8A – Section 8A-76(b)

This fee schedule establishes filing fees associated with petitions seeking an exemption from posting required notices on shopping carts.

The following fees shall be in effect through September 30, 2005. On October 1, 2005, and each October 1st thereafter, the fees shall increase by the percentage increase in the Consumer Price Index during the preceding year, rounded up to the nearest \$1 increment.

- A. Petition involving one store location \$ 55.00

- B. Petition for each additional store location \$ 25.00

**VIII. FOR HIRE – Chapter 4 – article III, Chapter 30 – Section 372.1 and Chapter 31
Articles I-VI**

A. Chauffeur Registration

- 1) Initial and Annual Renewal Chauffeur
Registration \$ 55.00

- 2) Late Fee for Renewal of Chauffeur
Registration \$ 55.00
after expiration date (in addition to
Renewal Fee)

- 3) Replacement of Chauffeur Registration \$ 26.00

| | | |
|---|----|--------|
| 4) New Taxicab Chauffeur Training Program | \$ | 135.00 |
| 5) New Limousine Chauffeur Training Program | \$ | 70.00 |
| 6) New Private School Bus Training Program | \$ | 30.00 |
| 7) Training Examination Retake Fee | \$ | 15.00 |
| B. Limousine License | | |
| 1) Initial License Application | \$ | 350.00 |
| 2) Initial and Annual Renewal License | | |
| Initial license fees shall be prorated according to the number of months remaining between the month of date of license issuance and the month of annual renewal. | | |
| a. Effective October 1, 2005 | \$ | 575.00 |
| b. Effective October 1, 2006 | \$ | 625.00 |
| 3) Late fee for Renewal of license after expiration date (in addition to renewal fee) | \$ | 550.00 |
| 4) Lottery Entry | \$ | 100.00 |
| 5) Replacement of License | \$ | 35.00 |
| 6) License Holder to License Holder Transfer Application | \$ | 170.00 |
| 7) License Holder to Non-License Holder Transfer Application | \$ | 350.00 |
| C. Non-Emergency Vehicle Certificate | | |
| 1) Initial Certificate Application | \$ | 300.00 |
| 2) Initial and Annual Renewal Certificate | | |
| Initial Certificate fees shall be prorated according to the number of months remaining between the month of the date of certificate issuance and the month of annual renewal. | | |
| a. Effective October 1, 2005 | \$ | 575.00 |
| b. Effective October 1, 2006 | \$ | 625.00 |
| 3) Replacement of Certificate | \$ | 35.00 |
| 4) Certificate Holder to Certificate Holder Transfer Application | \$ | 150.00 |
| 5) Certificate Holder to Non-Certificate Holder Transfer Application | \$ | 300.00 |
| D. Passenger Motor Carrier Certificate | | |
| Initial Certificate and operating permit fees shall be prorated according to the number | | |

of months remaining between the month of the date of issuance and the month of annual renewal.

| | | |
|---|----|--------|
| 1) Initial Certificate Application | \$ | 375.00 |
| 2) Initial and Annual Renewal Certificate | | |
| a. Effective October 1, 2005 | \$ | 575.00 |
| b. Effective October 1, 2006 | \$ | 625.00 |
| 3) Initial and Annual Renewal Operating Permit | | |
| a. Effective October 1, 2005 | \$ | 575.00 |
| b. Effective October 1, 2006 | \$ | 625.00 |
| 4) Replacement of Certificate of Operating Permit | \$ | 35.00 |
| 5) Modification of Certificate | \$ | 320.00 |
| 6) Certificate Transfer Application | \$ | 375.00 |
| 7) Emergency Temporary Certificate | \$ | 40.00 |

E. Private School Buses

See Vehicle Inspection Fees and Chauffeur Registration Fees

F. Special Transportation Service Certificates

Initial Certificate and Operating Permit fees shall be prorated according to the number of months remaining between the month of the date of the issuance and month of annual renewal.

| | | |
|---|----|--------|
| 1) Initial Certificate Application | \$ | 130.00 |
| 2) Initial and Annual Renewal Certificate | | |
| a. Effective October 1, 2005 | \$ | 575.00 |
| b. Effective October 1, 2006 | \$ | 625.00 |
| 3) Replacement of Certificate/Operating Permit | \$ | 35.00 |
| 4) Initial and Annual Renewal of Operating Permit | | |
| a. Effective October 1, 2005 | \$ | 575.00 |
| b. Effective October 1, 2006 | \$ | 625.00 |

G. Taxi

| | | |
|--|----|--------|
| 1) Initial License Application | \$ | 350.00 |
| 2) Initial and Annual License Renewal | | |
| a. Effective October 1, 2005 | \$ | 575.00 |
| b. Effective October 1, 2006 | \$ | 625.00 |
| 3) Late Fee for Renewal of License after expiration date | | |

| | | |
|--|----|--------|
| (in addition to renewal fee) | \$ | 550.00 |
| 4) Lottery Entry | \$ | 100.00 |
| 5) Replacement of License | \$ | 35.00 |
| 6) License Holder to License Holder Transfer | \$ | 170.00 |
| 7) License Holder to Non-License Holder Transfer | \$ | 350.00 |
| 8) Passenger Service Company Registration Fee | | |
| a. Effective October 1, 2005 | \$ | 110.00 |
| b. Effective October 1, 2006 | \$ | 150.00 |
| H. Vehicle Inspection Fees | | |
| 1) Quarterly, Semi-Annual or Annual Vehicle Inspection, as applicable (all categories) | \$ | 38.00 |
| 2) Vehicle safety re-inspection | \$ | 35.00 |
| 3) Replacement of Decal | \$ | 35.00 |
| 4) New Vehicle Inspection | \$ | 70.00 |
| 5) Vehicle re-inspection (non-safety) | \$ | 20.00 |

IX. MOTOR VEHICLE TITLE LOANS – Chapter 8A- Article III

The following fees shall be in effect through September 30, 2000. On October 1, 2000 and each October 1 thereafter, the fees shall increase by the percentage increase in the Consumer Price Index during the preceding year, rounded up to the nearest \$5 increment.

| | | |
|---|----|----------|
| A. Motor Vehicle Title Loan Business License Fees | | |
| 1) Initial Application and License Fee | \$ | 1,250.00 |
| 2) Biannual Renewal Fee | \$ | 1,000.00 |
| 3) Reactivation Fee (in addition to the Biannual Renewal Fee within 90 days of expiration) | \$ | 200.00 |
| 4) Replacement of License | \$ | 15.00 |

X. IMMOBILIZATION OF MOTOR VEHICLES – Chapter 30 – Article III

The following fees shall be in effect through September 30, 2000. On October 1, 2000 and each October 1 thereafter, the fees shall increase by the percentage increase in the Consumer Price Index during the preceding year, rounded up to the nearest \$5 increment.

- A. Immobilization Company License Fees
 - 1) Initial and Annual Renewal Fee \$ 500.00
 Initial License fees shall be prorated according to the number of days remaining between the date of license issuance and the date of birth of the applicant, if the applicant is a sole proprietor, or in the case of a corporation or partnership, from the date of formation of the legal entity.
 - 2) Late Fee for Renewal of License of company after expiration 50% of Initial (in addition to Renewal Fee) and Annual Renewal Fee
 - 3) Replacement of License \$ 15.00
- B. Immobilization Individual license Fees
 - 1) Initial and Annual Renewal Fee \$ 50.00
 Initial license fees shall be prorated according to the number of days remaining between the date of license issuance and the date of birth of the applicant
 - 2) Late Fee for Renewal of License of Individual after expiration 50% of Initial (in addition to Renewal Fee) and Annual Renewal Fee
 - 3) Replacement of License \$ 15.00

XI. ADMINISTRATIVE RECOVERY FEES – Chapter 4-Article I & III; 8A-Section 8A-76(B), Article III, VIIA, XVI, XVIII; Chapter 8AA-Article III, Chapter 30-Section 372.1, Article III, Chapter 31-Article I-VI

The following fees are for administrative, licensing, collection and enforcement related activities necessary beyond the issuance of civil citations under Chapter 8CC.

- A. Collection Processing Fees
 - 1) Case Processing Fee \$ Actual Cost
 - 2) Lien Processing Fee \$ Actual Cost
 - 3) Lien Recording Fee \$ Actual Cost
 - 4) Lien Cancellation Fee \$ Actual Cost
 - 5) Research Fee \$ Actual Cost
 - 6) Inspection (each) when in excess of two \$ 75.00

after Expiration (in addition to Renewal Fee)

50% of Initial and Annual Renewal Fee


D. Replacement of Registration Certificate \$ 15.00

Memorandum



Date: August 2, 2011

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Fiscal Impact for ordinance requiring the registration of pain clinics operating in Miami-Dade County

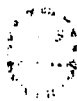
The proposed ordinance would establish a registration requirement for pain clinics operating in incorporated and unincorporated Miami-Dade County. The estimated fiscal impact of the implementation of this ordinance is \$12,000 in one-time expenditures and \$110,000 in recurring annual costs. These expenditures are required to provide the appropriate registration procedures including an applicant's database, and the required on-going enforcement.

To recoup these expenditures, a one-time application fee of \$120, and a recurring annual registration fee of \$1,200 may be considered.


County Executive Office

Fis5011





MEMORANDUM

Agenda Item No. 7(E)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners **DATE:** August 2, 2011

FROM: R. A. Cuevas, Jr.
County Attorney **SUBJECT:** Ordinance requiring the registration of pain clinics operating in incorporated and unincorporated Miami-Dade County

The proposed ordinance was amended by the Public Safety and Healthcare Administration Committee as follows:

1. Consumer Services Department will develop implementing policies and procedures within ninety (90) days from the effective date of the ordinance rather than sixty (60) days. Section ___ Registration, Paragraph A.
2. The fee to be charged by Consumer Services Department for processing applications for registration was clarified to be a reasonable fee and such reasonable fee will be implemented through an implementing order. Section ___ Designated Department, Paragraphs A and B.
3. Pain clinics applying for registration will have to demonstrate that they are in good standing with the Department of Health and, have not received notification of a pending investigation by the Department of Health, have not received a probable cause finding as a result of a Department of Health investigation, are not currently suspended, and have not received notice of any deficiencies from most recent Department of Health inspection. Section ___ Application; Review, Paragraph A(1).

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan, and Co-Sponsors Commissioner Bruno A. Barreiro, Commissioner Lynda Bell, Commissioner Esteban L. Bovo, Jr., Commissioner Jose "Pepe" Diaz, Commissioner Sally A. Heyman and Senator Javier D. Souto.

R. A. Cuevas, Jr.
County Attorney


RAC/up

Memorandum



Date: August 2, 2011

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Fiscal Impact for ordinance requiring the registration of pain clinics operating in Miami-Dade County

The proposed ordinance would establish a registration requirement for pain clinics operating in incorporated and unincorporated Miami-Dade County. The estimated fiscal impact of the implementation of this ordinance is \$12,000 in one-time expenditures and \$110,000 in recurring annual costs. These expenditures are required to provide the appropriate registration procedures including an applicant's database, and the required on-going enforcement.

To recoup these expenditures, a one-time application fee of \$120, and a recurring annual registration fee of \$1,200 may be considered.


County Executive Office

Fis5011



21

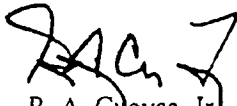


MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: August 2, 2011

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 7(E)

Please note any items checked.

- "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
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

~~3~~
22

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(E)
8-2-11

ORDINANCE NO. _____

ORDINANCE REQUIRING THE REGISTRATION OF PAIN CLINICS OPERATING IN INCORPORATED AND UNINCORPORATED MIAMI-DADE COUNTY; SETTING MINIMUM REQUIREMENTS FOR REGISTRATION AND PROVIDING FOR APPEAL OF DENIAL OF REGISTRATION; PROVIDING FOR TEMPORARY MORATORIUM; PROVIDING FOR PENALTIES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, Miami-Dade County has experienced a rapid influx of pain clinics and pain management clinics in recent years and currently there are 109 pain clinics in Miami-Dade County; and

WHEREAS, a pattern of illegal drug use and distribution and increased crime has been associated with some pain clinics; and

WHEREAS, some pain clinics dispense or prescribe medically unjustified amounts of controlled substances to addicts and to people who intend to illegally sell the drugs; and

WHEREAS, physicians in Florida, many of whom work in pain clinics, purchased over eighty-five (85%) percent of all the oxycodone and over ninety-three (93%) percent of all the methadone purchased by practitioners in the United States in 2006; and

WHEREAS, there has been an increased number of prescription drug-related deaths in Miami-Dade County over the past several years -- 66 deaths in Miami-Dade County were with the presence of Oxycodone and 122 deaths were with the presence of Benzodiazepines,



according to the South Florida Behavioral Network presentation at the Florida Alcohol and Drug Abuse Association on August 11, 2010; and

WHEREAS, according to the various annual and interim reports of the Florida Medical Examiner Commission, in Miami-Dade County, there was a 27% increase in opioid deaths in 2008; 42% of the total opioid reports in 2009 were lethal doses; and 28% of the opioid reports were considered to be the cause of deaths in the first half of 2010; and

WHEREAS, it has been reported to the Miami-Dade County Addiction Services Board that the nearly 1,000 infants born in Florida hospitals were treated for drug withdrawal in 2009, primarily for withdrawal from oxycodone and other prescription drugs; and

WHEREAS, some pain clinics attract unwelcome behaviors on their premises such as loitering, vagrancy, littering, drug use on the exterior of the premises, and illegal sale of drugs; and

WHEREAS, the Florida Legislature unanimously approved, and the Governor will most likely to sign, CS/CS/HB 7095 Engrossed 3, which provides a comprehensive response to pain clinics in Florida, including a prohibition on dispensing controlled substances on site; and

WHEREAS, pursuant to the Home Rule Charter of Miami-Dade County, the Board of County Commissioners has the power to establish, coordinate and enforce such regulations as are necessary for the protection of the public (Section 1.01(A) (12)) as well as perform any other acts which are in the common interest of the people of Miami-Dade County (Section 1.01(A)(23)); and

WHEREAS, the Board of County Commissioners is concerned about the rapid proliferation of pain clinics in Miami-Dade County, the pattern of illegal drug use and distribution and increased crime associated with some pain clinics, the increased deaths and

5
24

addictions associated with the prolific distribution of prescription drugs for non-medical purposes and the overall nuisance characteristics of many pain clinics; and

WHEREAS, the Board of County Commissioners desires to provide for the public health, safety and welfare of the people of Miami-Dade County,

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

Section 1. That the above recitals of legislative intent and findings are fully incorporated herein as part of this ordinance.

Section 2. Section _____ of the Code of Miami-Dade County, Florida, is hereby created to read as follows¹:

Sec. _____. Definition.

“Pain Clinic” and “Pain Management Clinic” (hereinafter “pain clinics” shall be inclusive of pain clinics and pain management clinics) shall have the same meanings and same exemptions as provided for in Sections 458.3265(1) and 459.0137(1) of Florida Statutes, as amended, or any successor state law.

Sec. _____. Registration.

A. All pain clinics operating within the geographic boundaries of Miami-Dade County shall register with Miami-Dade County’s Consumer Services Department immediately upon issuance of implementing policies and procedures which shall occur no later than ~~[[sixty (60)]]~~² >>ninety (90)<< days from the effective date of this ordinance, and annually thereafter.

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.

² Committee amendments are indicated as follows: words double stricken through and/or [[double bracketed]] shall be deleted, words double underlined and/or >>double arrowed<< constitute the amendment proposed.

6
25

B. Proof of registration with the County shall be prominently displayed in the common public area of the pain clinic.

C. Each pain clinic location shall be registered separately regardless of whether the clinic is operated under the same business name or management as another pain clinic.

D. A database of registered pain clinics operating in Miami-Dade County shall be maintained by the Miami-Dade Consumer Services Department.

Sec. _____. Designated Department.

A. The Miami-Dade Consumer Services Department ("Department") shall: conduct the registration process; establish a database of pain clinics operating in Miami-Dade County; enforce the provisions of this ordinance; and charge a >>reasonable<< fee for processing the applications and maintaining the database.

B. The Department [~~through implementing orders and/or administrative orders~~] shall establish policies and procedures necessary to implement the registration process, maintain the database, enforce the ordinance, and >>and through an implementing order<< charge >>reasonable<< fees [~~, and such order(s)~~].

C. The Department is authorized to inspect any pain clinic for proof of registration at any reasonable hour without prior notice.

Sec. _____. Application; Review.

A. Any pain clinic operating in Miami-Dade County shall file a sworn and notarized application which shall include proof of the following:

1. That the applicant >>is<< [~~has~~] registered with the State Department of Health as required by state law >>and is in good-standing with the Department of Health, has not received notification of a pending investigation by the Department of Health, has not received a probable cause finding as a result of a Department of Health investigation, is not currently suspended, and has not received notice of any deficiencies from most recent Department of Health inspection <<;

2. That the pain clinic is fully owned by a duly licensed medical or osteopathic physician or group of medical or osteopathic


26

physicians, or is licensed as a health care clinic under Part X of Chapter 400 of Florida Statutes; and

3. That all physicians who own the clinic or are employed by or have a contractual relationship with the clinic: have never had a Drug Enforcement Administration number revoked; have never had a license to prescribe, dispense, or administer a controlled substance denied by any jurisdiction; and have never been convicted of or pled guilty or nolo contendere to, regardless of adjudication, an offense that constitutes a felony for receipt of illicit and diverted drugs, including a controlled substance listed in Schedule I, Schedule II, Schedule III, Schedule IV or Schedule V of Section 893.03 of Florida Statutes, or of any state or the United States; and

4. Ownership in other pharmacies or pain clinics and the percentage of such ownership by any and all physicians who own the clinic seeking registration.

5. In addition, the application shall designate a physician who is responsible for complying with all requirements related to registration and operation of the clinic. If that physician ceases to be affiliated with the pain clinic, another physician must be so designated within ten (10) days. The designated physician must have a clear and active license under Chapter 458 (medical) of Florida Statutes or under Chapter 459 (osteopathic) of Florida Statutes, an active DEA registration; and shall practice at the clinic location for which the physician has assumed responsibility.

6. Any and all physicians associated with the pain clinic as owners, employees, contractors and specifically the physician designated to comply with all the requirements of registration and operations of the clinic shall provide the following:

a. sworn and notarized statement that attests: the physician owns, is employed by or has a contractual relationship with the pain clinic; and when applicable, agrees and accepts the designation to comply with all the requirements of registration and operations of the clinic;

b. a copy of the physician's driver's license or other government issued photographic identification; and

c. a copy of the physician's active State of Florida medical license.

8
27

B. The Department may require any physician identified in Sec. ____ (A)(6) to complete an in-person interview to verify the information in the application and/or notarized statement.

C. Within thirty (30) days of submission, the Department shall verify the information in the application and determine whether or not the applicant meets all the criteria established in Section 4(A) above.

1. If the applicant satisfies all the criteria in Section (4)(A), the pain clinic shall be registered within thirty (30) days of submission.

2. If the application is deemed incomplete, the applicant shall be notified in writing of the deficiencies within thirty (30) days of submission. The applicant shall have fifteen (15) days from the date of such notice to correct the deficiencies and complete the application. Failure to respond or make the corrections within the fifteen (15) days shall be considered a withdrawal of the application. The Department shall notify the applicant of the withdrawal upon expiration of the fifteen (15) days. If the applicant corrects the deficiencies within the fifteen (15) days, the Department shall have fifteen (15) additional days to verify that the application is complete and if complete, register the pain clinic.

3. If the applicant does not satisfy the criteria in Section 4(A), the clinic shall not be registered. The applicant shall be notified in writing of the decision to not register the pain clinic and of the reasons for not registering the clinic within thirty (30) days of submission or fifteen (15) days from the date that the applicant corrects deficiencies. The applicant shall have fifteen (15) days from the date of such notice to request a hearing in writing before the Department Director or designee. The Department Director or designee shall conduct the hearing within twenty (20) days of the date of the request for hearing. The Department Director or designee shall issue a written decision within fifteen (15) days of the hearing.

Sec. ____. **Violation.**

A. It shall be unlawful for any person to operate a clinic without prior registration. Violations shall be enforced through and in accordance with Chapter 8CC of the Miami-Dade County Code.

B. The Director of the Consumer Services Department is authorized to file any action in a court of competent jurisdiction to enforce the provisions of this ordinance and to seek appropriate remedies. In any such action the department shall be entitled to recover its reasonable costs in the enforcement of this ordinance including reasonable attorney fees.



2.8

Section 3. Section _____ of the Code of Miami-Dade County, Florida, is hereby created to read as follows:

Sec. _____. Temporary Moratorium.

A. The above recitals of legislative intent and findings are fully incorporated herein as part of this moratorium ordinance. The Board of County Commissioners finds that it is in the best interest of and for the benefit of the health, safety, and welfare of the residents of Miami-Dade County to institute a temporary moratorium on the issuance of pain clinic registrations, occupational licenses/taxes, certificates of use, permits and development orders so that Miami-Dade County can investigate the complaints surrounding pain clinics including but not limited to illegal drug use and distribution, increased crime, drug-related deaths and addictions and other nuisance activities as well as study the effectiveness of recent legislative action, CS/CS/HB 7095 Engrossed 3, in addressing these complaints. For the duration of this temporary moratorium, the County shall cease accepting applications or requests for issuance of pain clinic registrations, occupational licenses/taxes, certificates of use, permits and development orders from pain clinics not registered with the State of Florida Department of Health as of the effective date of this ordinance.

B. During the temporary moratorium, the Pain Clinic Task Force shall convene, with all deliberate speed, to investigate the complaints about pain clinics. The Pain Clinic Task Force shall consist of one representative from each of the following: the Miami-Dade County Addiction Services Board, the Nuisance Abatement Board, Consumer Services Department, Miami-Dade County Police Department, and Building and Zoning Department. The Task Force shall seek collaboration and input from other local, state and federal law enforcement, the State of Florida Department of Health and any other entity or person the Task Forces deems appropriate.

C. The Mayor or designee shall provide appropriate staff support to the Task Force. The staff shall: comply with requests for information by the Task Force; assist the Task Force with its duties; maintain and keep the records of the Task Force; prepare, in cooperation with the Task Force, the agenda for each meeting; be responsible for the preparation of such reports, minutes, documents, resolutions or correspondence as the Task Force may direct; and generally administer the business and affairs of the Task Force.

10

29

D. The Pain Clinic Task Force shall make recommendations to the Board of County Commissioners within one hundred and twenty (120) days from the effective date of this ordinance on: the effectiveness of CS/CS/HB 7095 Engrossed 3 in addressing the complaints surrounding pain clinics; whether or not it is necessary for the County to take any action to address the complaints surrounding plain clinics; and if so, how to best address the complaints surrounding pain clinics, including but not limited to zoning, regulatory, and enforcement recommendations.

E. The temporary moratorium shall expire upon enactment of any new ordinance(s) or resolution(s) addressing the underlying complaints or on hundred and eighty (180) days from the effective date of this ordinance, whichever date is earliest.

Section 4. Section 8CC-10 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

| <u>Code Section</u> | <u>Description of Violation</u> | <u>Civil Penalty</u> |
|---------------------|---|----------------------|
| >> _____ | <u>Operating Pain Clinic without Prior Registration</u> | <u>\$500<<</u> |

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:

Approved by County Attorney as
to form and legal sufficiency:

JAC

Prepared by:

KMC

Karon M. Coleman and Eugene Shy

Prime Sponsor: Commissioner Barbara J. Jordan
Co-Sponsors: Commissioner Bruno A. Barreiro
Commissioner Lynda Bell
Commissioner Esteban L. Bovo, Jr.
Commissioner Jose "Pepe" Diaz
Commissioner Sally A. Heyman
Senator Javier D. Souto

~~12~~