

**Miami - Dade County, Florida, Code of Ordinances**

**PART III - CODE OF ORDINANCES >> Chapter 8A - BUSINESS REGULATIONS**

**ARTICLE XX. - PAIN MANAGEMENT CLINICS**

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**Sec. 8A-411. - 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 F.S. §§ 458.3265(1) and 459.0137(1), as amended, or any successor state law.

*(Ord. No. 11-61, § 2, 8-2-11)*

**Sec. 8A-412. - 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 ninety (90) days from the effective date of this article [August 12, 2011], and annually thereafter.

**(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.

*(Ord. No. 11-61, § 2, 8-2-11)*

**Sec. 8A-413. - 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 article; and charge a reasonable fee for processing the applications and maintaining the database.

**(b)**

The Department shall establish policies and procedures necessary to implement the registration process, maintain the database, enforce the article, and through an implementing order charge reasonable fees.

**(c)**

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

*(Ord. No. 11-61, § 2, 8-2-11)*

**Sec. 8A-414. - 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 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 the 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 physicians, or is licensed as a health care clinic under F.S. Ch. 400, Pt. X; 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 F.S. § 893.03, 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 F.S. Ch. 458 (medical) or under F.S. Ch. 459 (osteopathic), 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.**

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.

**(b)**

The Department may require any physician identified in subsection (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 subsection (a) above.

**(1)**

If the applicant satisfies all the criteria in subsection (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 subsection (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.

*(Ord. No. 11-61, § 2, 8-2-11)*

**Sec. 8A-415. - 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 article and to seek appropriate remedies. In any such action the department shall be entitled to recover its reasonable costs in the enforcement of this article, including reasonable attorney fees.

*(Ord. No. 11-61, § 2, 8-2-11)*

**Sec. 8A-416. - Temporary moratorium.**

**(a)**

The recitals of legislative intent and findings of Ordinance No. 11-61 are fully incorporated herein as part of this moratorium section. 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 article [August 12, 2011].

**(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 Planning 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 Force 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.

**(d)**

The Pain Clinic Task Force shall make recommendations to the Board of County Commissioners within one hundred twenty (120) days from the effective date of this article [August 12, 2011] 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 one hundred eighty (180) days from the effective date of this article [August 12, 2011], whichever date is earliest.

*(Ord. No. 11-61, § 3, 8-2-11)*

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