

## EXHIBIT A-1

### PAIN MANAGEMENT CLINICS A SUBCOMMITTEE OF THE LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)

#### MINUTES OF THE APRIL 18, 2011 SUBCOMMITTEE MEETING

Prepared by Zona Case, Zoning Technician

On Monday, **April 18, 2011**, the Pain Management Clinics Subcommittee met at the Vista Center, Room VC-1E-58 Conference Room, at 2300 North Jog Road, West Palm Beach, Florida.

Third meeting of the Pain Management Clinics Subcommittee for Amendment Round 2011-01.

#### A. Call to Order

The meeting was called to order at 2:40 p.m.

The participants introduced themselves.

##### 1. Roll Call/Introduction

Those in attendance were asked to introduce themselves.

**Subcommittee Members:** Lori Vinikoor and Robert Schulbaum.

**Interested Parties:** Lt. Bruce Hannan, Captain Eric Coleman, Thomas Lanahan and Charles Wu.

**County Staff:** Bob Banks, William Cross, Zona Case, Deb Wiggins and Kenny Wilson.

##### 2. Additions, Substitutions and Deletions to Agenda

None.

##### 3. Motion to Adopt Agenda

Motion by Robert Schulbaum, Seconded by Lori Vinikoor.

##### 4. Adoption of March 2, 2011 Minutes (Exhibit A-1)

Motion to Adopt by Lori Vinikoor, seconded by Robert Schulbaum.

##### 5. Adoption of March 21, 2011 Minutes (Exhibit A-2)

Motion to Adopt by Lori Vinikoor, seconded by Robert Schulbaum.

#### B. DISCUSS STATUS OF CURRENT STATE LEGISLATION

Ms. Vinikoor asked about the status of current legislation. Discussion ensued as to the current status of various legislation proposed in the 2011 session.

Ms. Vinikoor expressed the view that the database would be very useful. This view was supported by Mr. Wilson who said that the database also prevents people from doctor shopping. Ms. Vinikoor went on to raise the following questions:

- What will be tracked on the database?
- What is being tracked – is it doctors' prescriptions?
- How will the tracking affect dispensing by doctors?
- Why aren't there more arrests?

Mr. Banks responded that dispensing of controlled substances is tracked so that if a person fills prescriptions at multiple pharmacies the sales are tracked within the companies or if they submit two claims for insurance reimbursement for the same prescribed medicine this too would be a way of tracking. Mr. Wilson added that the 72 hour limitation will have some effect on doctors as the patient has to go to pharmacies for additional pills.

He continued by saying that a system is already in place to track wholesale shipments of pills to doctors. The DEA is authorized to do audits and if the doctors cannot account for the

## EXHIBIT A-1

pills, they can be shut down. This system already exists under DEA and Health Department guidelines but the reason more people are not arrested, he said, was mainly administrative in nature, there being insufficient investigators to do the monitoring. Mr. Hannan also informed the subcommittee that contrary to public perception of an open database and possible privacy issues, only 2% of persons in Law Enforcement has access to the database and subpoenas have to be obtained for any action. Mr Wilson stated that that a potential problem is that only good doctors may comply with the registry.

### C. REVIEW DRAFT AMENDMENTS

#### 1. Need to Define Pain Management Clinic

Mr. Cross referred to the definition of Pharmacy on page 1 and the changes in the Retail Sales, General Use. Referring to Parts 2 and 3, Mr. Cross said that when the moratorium was drafted a definition was created for Pain Management Clinics. If they are treated as medical offices there is no need to have a specific category.

Ms. Vinikoor recommended that Pain Management Clinics be eliminated from the amendments as they fall under the umbrella of medical office. She also suggested that Parts 2 and 3 be removed.

Mr. Cross stated that part 4 should be kept. Part 8 be deleted as technically it is set to expire with the Moratorium, therefore Use Note 91-1 in Art 4, Use Regulations of the Unified Land Development Code (ULDC) will be removed.

#### 2. Exemptions from Dispensing Limitations

Referring to Page 4, Part 7, Mr. Cross stated that both the Delray Beach and Greenacres Ordinances list exemptions from dispensing prohibitions, but he had been advised by Mr. Banks that it is not necessary to include language to this effect as the exemptions are in the Statutes. Mr. Lanahann said because of certain conditions that existed at the time the Ordinance was adopted, Greenacres thought it necessary to list the exemptions.

Ms. Vinikoor asked whether doctors will be prohibited from doing onsite dispensing unless the State law allows it and Mr. Wilson questioned whether the County has the right to regulate dispensing by a doctor. Mr. Banks said that the County had the authority to regulate dispensing. It was noted that there were different methods to restrict the availability of pharmacies, as evidenced by regulations proposed for Marin County. Mr. Cross said a factor to be considered is that there is almost non-existent commercial activity near the Turnpike or Interstate in Martin County whereas in PBC, there are numerous commercial sites within 1,000 ft of I-95 and Turnpike Interchanges. The discussion continued, and the following points were made:

- Ms. Vinikoor held the view that a doctor should be allowed to dispense and expressed support for the three-day (72 hour) limitation to be included.
- Mr. Lanahan said there was no need to add anything to the language.
- Mr. Banks pointed out that Delray Beach and Green Acres, regardless of State law, are prohibiting dispensing, and the County is permitting dispensing, unless the State Law prohibits. He went on to add that basically State law prevails, so there is no need for the language.
- Mr. Banks reminded members that the 72 hour limitation applies to Pain Management Clinics only. He went on to say that the County will let the State regulate, unlike Delray Beach and Greenacres municipalities. Mr. Banks also suggested that the County wait to see what is approved by both the House and

## EXHIBIT A-1

Senate and signed by the Governor, and if there is a legislative gap we can re-address the issue.

Mr. Cross referred to Page 5, which provided for limitations on pharmacy dispensing under the uses of Personal Services and Retail Sales General, and pointed out the changes. Mr. Wilson questioned the reference to Schedule II only, and the omission of Schedules III and IV. Mr. Cross said he was unable to ascertain the limit on III and IV. Mr. Lanahan added that when the Greenacres Ordinance was being drafted they wanted to address the hardest but could not get agreement on III and IV. Mr. Banks followed this up by saying that some legislators suggested number of prescriptions and not descriptions. Captain Coleman said that according to statistics, the average person takes 240 Schedule II pills per year.

Ms. Vinikoor referred to Part 10, Line 45 related to pharmacies accepting payment by insurance companies for controlled substances. The following points were made:

- Mr. Wilson was of the opinion that the language does not mean the prescription has to be paid for the insurance company.
- Mr. Schulbaum said that if the customer has insurance, it can be used for purchases.
- Ms. Wiggins said that not all doctors take insurance. In a lot of cases the patient has to pay out of his pocket up front.
- Mr. Wilson was of the opinion that pharmacies should have a system in place to accept insurance and that the language should state: "A pharmacy cannot operate on a cash only basis."
- Mr. Lanahan stated that there are other jurisdiction that have "cash only" in their language and suggested that Mr. Cross check with IPARC to find out which ones do.
- Mr. Banks recommended that the County wait to see what the legislation states before making a decision.

○  
Ms. Vinikoor made a motion to accept the changes and Mr. Schulbaum seconded the motion.

Mr. Cross advised members of the following schedule

- May 25, 2011 - Amendments presented to the LDRAB
- June 27, 2011 -Request for Permission to Advertise
- July 28 – First Reading
- August 25, Adoption

### 3. Other Options

There were no other suggestions or considerations.

### D. PUBLIC COMMENT

None

### E. ADJOURN

Meeting adjourned at 3:30