

Report of the Pain Management Clinic Subcommittee of IPARC

July 14, 2010

Following the April 29, 2010 meeting of the Executive Committee and Issues Forum, a subcommittee of IPARC was established to review the recently adopted state legislation with regard to pain management clinic regulation and provide recommendations on addressing this issue in Palm Beach County. The subcommittee consisted of the following IPARC members: Thomas Lanahan, Chair, City of Greenacres; Michael Rumpf, City of Boynton Beach; Paul Dorling, City of Delray Beach; and Charles Wu, City of West Palm Beach. In addition, Monica Cantor, Palm Beach County Zoning Division served as a representative of Palm Beach County. The group also received information from Sergeant Brady Meyers, Delray Beach Police Department, who serves on the Palm Beach County Sheriff's Office Task Force for this issue.

From the subcommittee members' review of the Broward County Grand Jury Report of November 19, 2009, newspaper reports, recent Florida Statute changes contained in CS/CS SB 2272, and the group's discussion with Sergeant Brady Meyers, the subcommittee determined that over the past year Palm Beach County has been experiencing a rapid increase in the number of businesses operating as "Pain Management Clinics" wherein large quantities of Schedule II, III, and IV narcotics are prescribed and dispensed to patients visiting the clinics. Some patients will visit multiple clinics over 1 or more days, obtaining large quantities of pills at each location without each doctor's knowledge since there is currently no way to track this activity. In many cases, these medicines are then sold or bartered to other persons for illegal distribution. This activity fuels addiction and has attracted people to South Florida, including Palm Beach County, from as far away as Kentucky to obtain such drugs for illegal distribution in their home state.

These activities create excessive traffic, loitering, attraction of criminals seeking to exploit addicts, and thefts to pay for the medication to feed the addiction.

Communitywide, there are negative impacts on the health care and criminal justice systems in handling the injuries, overdoses, and criminal acts that are caused. These negative impacts are a threat to the health, safety, and welfare of the County.

As currently adopted, Florida Statutes do not fully address this issue and will take too long to implement since last year's statewide database is not funded and not operational and this year's changes will not start until October 1, 2010 and not reach full operation until January 1, 2012.

The subcommittee recognizes that zoning alone cannot effectively address this serious problem, which is affecting the South Florida region, and that a coordinated inter-jurisdictional approach between planning departments, law enforcement, and code enforcement is essential to collectively tackle this societal problem.

To effectively address this issue in Palm Beach County, the subcommittee finds that a consistent approach should be undertaken countywide, including the following features:

1. Amend zoning regulations to prohibit on-site dispensing of controlled substances that are identified in Schedule II, III, or IV in Section 893.03, and as further amended by Sections 893.035 or 893.0355, Florida Statutes, in excess of a one-time 72-hour emergency resupply or unless otherwise expressly permitted by law. The 72-hour standard is consistent with Florida Statutes and has also been found to be reasonable in communities in South Florida that have established such a restriction already.
2. Consider the regulation of pharmacies to ensure that they operate legitimately (such as that all dispensing is to be done by a state licensed pharmacist and that no more than a maximum of 25% of sales revenue may come from the sale of Schedule II drugs) and are not established in conjunction with, or in close proximity to, pain management clinics merely to avoid the restrictions in #1 above.
3. Make the improvement and funding of the state's prescription drug database (authorized last year but not funded) a Palm Beach County legislative priority for next year's state legislative session. The state database needs to be enhanced to have a reasonable update requirement (current 15 days to make updates is too long to be effective) and to mandate that doctors check it before prescribing or dispensing (currently voluntary).
4. In the event the state is unwilling to act, explore establishing a prescription drug database for Palm Beach County. This could possibly be done through the Health Care District of Palm Beach County.
5. Monitor the work of the Broward County Pain Management Clinic Task Force and regroup the IPARC subcommittee in September when the Task Force's zoning recommendations are completed. The subcommittee should include a representative from the Palm Beach County Sheriff's Office Task Force. Jurisdictions in Broward as well as the City of Tampa and Hillsborough County have adopted or are currently considering the following:
 - a. Prohibitions or limitations on on-site dispensing.
 - b. Parking studies to be provided with new pain management clinic applications.
 - c. Periodic reporting standards and very detailed permit application requirements.
 - d. Hours of Operation limitations.

- e. Prohibitions against operating "Cash Only".
- f. Amortization of existing clinics.
- g. Distance separation between pain management clinics.
- h. Size limitations.
- i. Conditional / Special Exception use approval requirements.
- j. Medical Director on-site, Medical Director to be Board Certified in Pain Management.

Not all jurisdictions have adopted all of these items and some have adopted only 1 or 2 of them. The issue is still very fluid in Broward County just as in Palm Beach County.