

**BOARD OF COUNTY COMMISSIONERS**

DATE: June 18, 2013  
AGENDA ITEM NO. 166.

Consent Agenda ☐

Regular Agenda ☒

Public Hearing ☐

County Administrator's Signature

**Subject:**

Approval of Authority to Advertise for a Public Hearing for a Proposed Amendment to the Pinellas County Code Regarding High Prescribers.

**Department:**

Healthy Communities

**Staff Member Responsible:**

Tim L. Burns, Director  
Justice & Consumer Services

**Recommended Action:**

I RECOMMEND THAT THE BOARD OF COUNTY COMMISSIONERS (BOARD) AUTHORIZE THE ADVERTISEMENT OF A PUBLIC HEARING TO BE HELD ON July 9, 2013, FOR A PROPOSED ORDINANCE AMENDING THE PINELLAS COUNTY CODE REGARDING HIGH PRESCRIBERS.

**Summary Explanation/Background:**

On May 4, 2010, the Board approved Ordinance 10-26 setting a moratorium on pain management clinics operating in Pinellas County. This moratorium also included registration provisions providing the County with information regarding the number of pain management clinics in the community and set basic standards to operate a pain management clinic. This ordinance was enacted with the intent of being applicable until State efforts adequately addressed our local concerns. On September 28, 2010, the Board amended this ordinance to require additional registration information and included a fee in order to allow the County to recoup the costs of administering the mandates of the ordinance.

On November 8, 2011, the Board amended this ordinance to include a minimum prescription requirement (34 in any given day) as a registration requirement, a change in name from Pain Management to High Prescribers, a reduction in registration fees, and recommended the institution of some standards of care by High Prescribers. The Ordinance was passed by the Board in anticipation of further State efforts during the 2012 Legislative Session.

On May 8, 2012 the Board amended this ordinance to adjust the minimum prescribing requirement (20 in any given day) as a registration requirement. The Ordinance was passed by the Board in anticipation of further State efforts during the 2013 Legislative Session.

In 2012, Pinellas County saw continued progress through various collaborative efforts, including effective enforcement strategies by the Sheriff's Office and local law enforcement, local regulation, education, and sporadic use of the statewide prescription drug monitoring program database (PDMP). Noting a key success, prescription drug related deaths have decreased by 29.7% from 249 in 2010 to 175 in 2012, which, while still a problem, is certainly progress. Prescription drug addicted newborns and youth removals continue to be a major, ongoing concern to be addressed.

Since no action was taken by the State during the 2013 session and local concerns persist, the ordinance provides for a continuation of the moratorium against high prescribing clinics until sixty (60) days after the close of the 2014 Legislative Session to allow previous measures time to reach a desired level of effect and to provide the State with time to pass effective regulatory strategies. The Prescription Drug Advisory Task Force has continued concerns over high prescribing activity and recommends continuing the moratorium for one additional year. The Prescription Drug Advisory Task Force will continue to review and monitor local trends and impacts.

This ordinance amendment aligns with the strategic direction of the Board by furthering the core service areas of Health and Human Services and Public Safety. It directly impacts prescription drug related deaths, drug addicted newborns, youth custody removals, and other negative outcomes created by the recent epidemic of prescription drug abuse. The moratorium extension prevents new locations from moving into Pinellas County while awaiting effective rules and regulation by the state such as mandatory use of the PDMP, regulation based on activity rather than title and certification, and sustained registration and oversight.

**Fiscal Impact/Cost/Revenue Summary:**

The cost of Administering this ordinance should be recovered through the permit and application fees estimated to generate \$42,000.00 per year.

**Exhibits/Attachments Attached:**

Underline Strike-Through Copy of Ordinance  
Clean Approved-As-Form Copy of Proposed Ordinance

ORDINANCE NO. 13-\_\_

AN ORDINANCE OF THE COUNTY OF PINELLAS RELATING TO PUBLIC HEALTH AND SAFETY; AMENDING ARTICLE V OF CHAPTER 86 OF THE PINELLAS COUNTY CODE BY AMENDING SECTION 86-126 LEGISLATIVE FINDINGS OF FACT; SECTION 86-132 REGISTRATION; SECTION 86-135 REGISTRATION MORATORIUM DECLARED; AND SECTION 86-140 ADMINISTRATIVE RULES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE COUNTY CODE; PROVIDING AN EFFECTIVE DATE AND PROVIDING FOR OTHER MODIFICATIONS WHICH MAY ARISE FROM REVIEW OF THE ORDINANCE WITH RESPONSIBLE AUTHORITIES.

WHEREAS, the County Commission is aware of the continued pattern of illegal drug use and distribution associated with the prescribing patterns of certain health care clinics in Pinellas County; and

WHEREAS, the threat of illegal narcotic activity and increased crime associated with such prescribing is significant and could undermine the economic health of the County's development and redevelopment efforts; and

WHEREAS, measures adopted by the State of Florida continue to move forward with uncertain timing and impact; and

WHEREAS, the use of the Prescription Drug Monitoring Program remains voluntary and continues to have ongoing funding concerns; and

WHEREAS, the Legislature failed to adopt legislation during the 2013 session to adequately address the issues of prescription drug abuse; and

WHEREAS, Pinellas County has seen five hundred and fifty-four (554) youth removed from parents due to prescription drug abuse from September 2010 through March 2013 making up 42.2% of all removals; and

WHEREAS, nearly 25% of the total removals (138) occurred within the six months from October 2012 through March 2013; and

WHEREAS, newborn prescription drug withdrawal continues to be a major problem and ongoing concern across Florida as outlined within the February 2013 Statewide Task Force Report; and

WHEREAS, progress has been made in the reduction of prescription drug related deaths within Pinellas County seeing a 29.7% decline from 2010 to 2012, from 249 deaths to 175 deaths, as a result of cooperative efforts at the State and local level; and

WHEREAS, Pinellas County seeks to establish strong communication and partnerships with the medical community; and

WHEREAS, registration under this ordinance does not suggest that the facility is operating outside of normal standards of medical care; and

WHEREAS, the Prescription Drug Advisory Board has reviewed the most recent toxicology reports and received information on the most recent law enforcement studies regarding prescription drug addiction in Pinellas County, its effects on the public and the potential outcomes of allowing additional clinics in the County; and

WHEREAS, there is a need for review and adoption of a consistent approach across counties; and

WHEREAS, after consideration of the above factors, extending the current moratorium for an additional year allows Pinellas County to coordinate with neighboring counties to further address prescription drug-related impacts within the community and provides time to develop consistent cross-jurisdictional approaches to regulation; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA, that:

Section 1. Section 86-126 of the Pinellas County Code is amended to read as follows:

**Sec. 86-126. - Legislative findings of fact.**

~~The county commission finds and declares~~found that it ~~is~~was in the best interest of the general public and there exists a need to enact ~~and extend~~ an ordinance requiring the registration of ~~pain management~~high prescribing health clinics operating in Pinellas County ~~because of their negative impacts on citizens of the County. An opportunity to register was provided any clinic after which a moratorium on new clinics went into effect with the desire that the state Legislature would address the concerns found by the county commission. In the most recent Legislative Session the state failed to take action on this issue, therefore the county will pursue a regional approach to address the problems related to high prescribing health clinics and consider further options for enacting stricter standards of regulation consistent with our home rule authority. The county commission further finds the use of this term, pain management, has negative implications and also limited application. These concerns create inconsistencies with the intent of the Board, as such in order to more accurately reflect the purpose of this ordinance, the terminology referencing pain management will be amended to reference "high prescribing" health care providers.~~

Section 2. Section 86-132(a) of the Pinellas County Code is amended to read as follows:

**Sec. 86-132. - Registration.**

- (a) No high prescribing health clinic, unless otherwise exempted, shall operate in Pinellas County by any means without having been issued a high prescribing health clinic permit by the department. ~~High prescribing health clinics operating as of the effective date of the ordinance, unless otherwise exempted or currently in possession of a high prescribing health clinic permit issued by the department, shall register with the department within 30 days of the effective date of this ordinance.~~

Section 3. Section 86-135(a) of the Pinellas County Code is amended to read as follows:

**Sec. 86-135. - Registration moratorium maintained.**

- (a) It is the legislative determination of the county commission that the moratorium on submission of applications for issuance of permits for high prescribing health clinics as to any property located in whole or part within Pinellas County be maintained pending further review by the Board of County Commissioners no later than 60 days after the close of the 2014~~3~~ Legislative Session.

Section 4. Section 86-140 of the Pinellas County Code is amended to read as follows:

**Sec. 86-140. - Administrative rules.**

The department ~~shall~~ may promulgate additional rules and forms deemed necessary to carry out the purposes of this article which shall include provisions consistent with the procedural requirements set forth in this ordinance for:

- (a) Suspension of a high prescribing health clinic permit for violating provisions of this article or applicable administrative rules.
- (b) Reporting requirements for high prescribing health clinic.
- (c) Operational guidelines for high prescribing health clinic.
- (d) Other rules as necessary to achieve the purposes of this article consistent with the purposes of this ordinance as designated by the Board of County Commissioners.

Section 5. Severability.

If any section, subsection, sentence, clause or phrase of this article, amendment or the particular application thereof, shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentence, clause or phrase and application shall not be affected thereby.

Section 6. Area Embraced.

This article shall be in effect in the incorporated and unincorporated areas of Pinellas County.

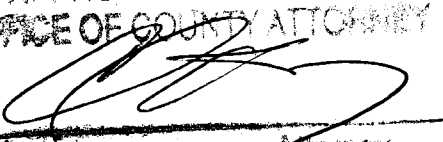
#### Section 7. Codification.

The provisions of this Ordinance shall be included and incorporated in the Pinellas County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Pinellas County Code.

#### Section 8. Filing Of Ordinance; Effective Date.

Pursuant to Section 125.66, Florida Statutes (2010), a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners, and shall become effective upon filing with the Department of State.

APPROVED AS TO FORM  
OFFICE OF COUNTY ATTORNEY

  
\_\_\_\_\_  
Attorney

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WHEREAS, the County Commission is aware of the continued pattern of illegal drug use and distribution associated with the prescribing patterns of certain health care clinics in Pinellas County; and

WHEREAS, the threat of illegal narcotic activity and increased crime associated with such prescribing is significant and could undermine the economic health of the County's development and redevelopment efforts; and

WHEREAS, measures adopted by the State of Florida continue to move forward with uncertain timing and impact; and

WHEREAS, the use of the Prescription Drug Monitoring Program remains voluntary and continues to have ongoing funding concerns; and

WHEREAS, the Legislature failed to adopt legislation during the 2013 session to adequately address the issues of prescription drug abuse; and

WHEREAS, Pinellas County has seen five hundred and fifty-four (554) youth removed from parents due to prescription drug abuse from September 2010 through March 2013 making up 42.2% of all removals; and

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WHEREAS, registration under this ordinance does not suggest that the facility is operating outside of normal standards of medical care; and

WHEREAS, the Prescription Drug Advisory Board has reviewed the most recent toxicology reports and received information on the most recent law enforcement studies regarding prescription drug addiction in Pinellas County, its effects on the public and the potential outcomes of allowing additional clinics in the County; and

WHEREAS, there is a need for review and adoption of a consistent approach across counties; and

WHEREAS, after consideration of the above factors, extending the current moratorium for an additional year allows Pinellas County to coordinate with neighboring counties to further address prescription drug-related impacts within the community and provides time to develop consistent cross-jurisdictional approaches to regulation; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA, that:

Section 1. Section 86-126 of the Pinellas County Code is amended to read as follows:

**Sec. 86-126. - Legislative findings of fact.**

The county commission found that it was in the best interest of the general public and there exists a need to enact an ordinance requiring the registration of high prescribing health clinics operating in Pinellas County because of their negative impacts on citizens of the County. An opportunity to register was provided any clinic after which a moratorium on new clinics went into effect with the desire that the state Legislature would address the concerns found by the county commission. In the most recent Legislative Session the state failed to take action on this issue, therefore the county will pursue a regional approach to address the problems related to high prescribing health clinics and consider further options for enacting stricter standards of regulation consistent with our home rule authority.

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If any section, subsection, sentence, clause or phrase of this article, amendment or the particular application thereof, shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentence, clause or phrase and application shall not be affected thereby.

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APPROVED AS TO FORM  
OFFICE OF COUNTY ATTORNEY

By

A large, stylized handwritten signature in black ink, written over a horizontal line.

Attorney