



FSIPP
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FLORIDA SOCIETY OF INTERVENTIONAL PAIN PHYSICIANS

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June 6, 2011

Sarasota County
Ordinance Committee

Dear Sgt. Kaspar:

I am writing to you as President of the Florida Society of Interventional Pain Physicians and on behalf of our Board of Directors. We have recently become aware of the proposed Sarasota County Ordinance regulating pain clinics. We understand the frustration of local communities facing the "pill mill" epidemic and the suffering and deaths that have resulted. We have supported the development of Ordinances as progress at the State Legislative and Regulatory level was slow. However, just last Friday Governor Scott signed a very comprehensive pain clinic reform bill into law, HB7095. I have attached this Bill for your reference. The Bill takes into consideration many aspects of oversight and regulation of pain clinics in general but specifically "pill mills". The burden on legitimate pain physicians has been large and the new law alleviates some, but not all of that.

We recognize that we all need to do our part to combat this scourge. We are concerned that as pill mills are shut down there will be a large number of patients that need care from legitimate pain physicians. These patients must have access to care and not become a burden to themselves, their families and their County Emergency Rooms. Encumbering legitimate pain physicians with fees and strict rules will only force them to close their practices. We are aware that in developing this law Senator Fasano and Representative Schenck put a great deal of thought in developing State Law that considers the complexities of the existing problem and the need to protect legitimate pain practices.

We respectfully would advise that any Ordinance follow State Law and that the County should concentrate on logistical regulations (e.g., "cueing of cars", loitering, parking requirements, hours of operation, alcoholic consumption, "cash-only" practices, etc....).

ORDINANCE, paragraph 2, page 1.

“Whereas, the moratorium enacted by Sarasota County is scheduled to expire on June 8, 2011, and the State has not yet completed its actions to regulate pill mills; and”

The Governor signed the HB7095 into law Friday, June 3, 2011 in Ft. Lauderdale. The Prescription Drug Monitoring Program will be implemented in the fall of 2011 (contract with managing company has been finalized, funding is in place). Attorney General Bondi publicly assured that her office would fund the PDMP from forfeited funds, if necessary.

Section 1 (6)

“During the 2011 Legislative Session, HB 7095 was passed and sent to Governor for his signature.” Bill was signed into effect by the governor on 6/3/11.

Section 62-329, (10) (a) (2) and (3)

All controlled substance dispensing is now banned by State Law, therefore would remove all references to office controlled substances dispensing.

Section 62-331, (3)

As credit cards, debit cards, and checks are considered cash payments, we recommend including these in the definition of “cash only.” Redefine the “cash only” phrase as it would be very easy to have "pill mills" require credit cards and checks for payment and not accept any type of insurance or even Medicare, a large part of our (legitimate) pain population.

Section 3 (10) (b) (1)

“...it employs physicians, the majority of who provide services in the clinic, facility, or offices primarily provide surgical services (excluding interventional pain management procedure that are invoiced or coded as surgical procedures)...”

This would be inconsistent with HB7095, now State Law. The ordinance should include, as State Law now does, interventional pain physicians who do procedures using surgical codes, as an exemption, not exclude these physicians. This was done as there have been NO instances of “pill mills” involving interventional pain physicians.

Section 3 (10) (b) (2)

“...it is licensed as a facility pursuant to chapter 395, Florida Statutes (hospitals, ASCs, skilled nursing facilities, etc.). (excluding outpatient facilities that provide pain management services as outlined in subsection (10) (a) above: or....”

This last section, i.e., “excluding outpatient facilities...” is inconsistent with the new State Law and should be deleted from the ordinance. Hospitals, including their outpatient programs licensed under Chapter 395 are exempt in prior versions, as well as, the new State Law. Hospital Outpatient Departments are as much a part of the hospital as the Intensive Care Unit or Emergency Room. All employees are hospital employees and all physicians are hospital credentialed. These centers have an enormous amount of regulatory oversight monitoring quality of care and compliance, which includes but is not

limited to Medicare certification, Joint Commission Organization, DOH/AHCA, in-house Pharmacy for controlled substance accounting and monitoring, as well as the Medical Staff Office Credentialing and Quality Improvement Committees. These are just a few of the oversight activities that facilities licensed under Ch. 395 must have. Also, specific to the new State Law, all not-for-profit organizations (501 (c) 3) are exempted from registration and the Rules, which were created for and intended to regulate “pill mills”.

One great advance of the new law is the formalization and increase in criminal penalties for clinics operating outside the expected standards of care. This was requested by Attorney General Bondi. We strongly endorse its toughening as it will make law enforcement work easier.

The Ordinance at hand appears to be less necessary since we now have a comprehensive Law and the Prescription Drug Monitoring Program has been approved by all, including the award of the contract and is scheduled to begin operation in September-October 2011. Please review these recommendations and forward to the appropriate County Committees. We are happy to participate in any meeting to personally provide input, at any time or your convenience. We apologize for this late response, but only became aware of this activity last week.

Sincerely,

Deborah H. Tracy MD, MBA
FSIPP, President