

COUNTY OF CHEROKEE)
)
STATE OF GEORGIA)

ORDINANCE NO. 2010-O-007

**AN ORDINANCE IMPOSING A LIMITED AND
TEMPORARY MORATORIUM UPON ISSUANCE OF
BUSINESS LICENSES TO NEW PAIN MANAGEMENT
CLINICS WITHIN CHEROKEE COUNTY**

WHEREAS, information received from law enforcement officials in several States indicate that criminal activity increases in areas where pain clinics operating as no more than “pill mills” are located; and

WHEREAS, the Grand Jury in Broward County, Florida, heard testimony and considered evidence concerning the proliferation of such pain clinics in Broward County and South Florida; and

WHEREAS, the Broward County, Florida, Grand Jury issued its Interim Report on November 19, 2009, concerning The Proliferation of Pain Clinics in South Florida (“Broward County Grand Jury Report”); and

WHEREAS, the Broward County Grand Jury Report found that “In 2007 there were 4 pain clinics operating in Broward County. From those 4 pain clinics in Broward County the number swelled to 66 pain clinics operating in South Florida in 2008. From August 2008 to November 2009 the number of pain clinics opening and operating in South Florida exploded in number from 66 to 176, and the number of pain clinics opening and operating in Broward County increased from 47 to 115. Pain clinics, which dispense prescription drugs on site, dispensed almost 9 million dose units of Oxycodone in South Florida during the last months of 2008. 6.5 million dose units of the 9 million dose units were dispensed in Broward County alone.” Broward County Grand Jury Report at page 6; and

WHEREAS, the Broward County Grand Jury Report reported as follows: “The National Survey on Drug Use and Health conducted annually by the Substance Abuse Mental Health Services Administration estimates that in the last 30 days over 5 million Americans used non-medical prescription opioids or narcotic analgesics or pain relievers. In 2005, 11,300,000 Americans age 12 and above had used prescription pain medication in a non-medical use. In 2007, the number increased almost 50% to 16,280,000 Americans. One of the age groups that have shown the highest levels of prescription non-medical use has been young adults age 18 to 25. In 2007, 2,147,000 Americans were first time non-medical users of prescription pain medication.” Broward County Grand Jury Report, at pages 11-12; and

WHEREAS, Cherokee County has great respect for reputable medical practitioners who are attempting to diagnose and treat pain being experienced by their patients; and

WHEREAS, the typical pain clinic, however, operating as no more than a “pill mill” has little or no interest in treating pain or the symptom of pain, but is interested in only dispensing prescription pain medication with little or no diagnosis of the “patient.” See Broward County Grand Jury Report at ages 19-20; and

WHEREAS, the Broward County Grand Jury Report found that “[a] couple of cities in Broward County have attempted to restrict the growing number of clinics in their cities by enacting ordinances to prohibit the location of pain management clinics that dispense narcotic drugs on site.” Broward County Grand Jury Report at page 33; and

WHEREAS, Cherokee County has been made aware of numerous news reports describing a “pipeline” of trafficking drugs from pain management clinics in South Florida to users in States such as Kentucky, West Virginia, and Ohio; and

WHEREAS, prescription drug abuse is becoming a major problem in Georgia, and according to the Georgia Drug and Narcotics Agency, deaths due to prescription drug overdoses have surpassed those of all other illicit drugs; and

WHEREAS, adoption of a moratorium on the issuance of business licenses to pain management clinics will provide Cherokee County an opportunity to develop ordinances and/or regulations that address the secondary effects of pain management clinics on individuals and the community; and

WHEREAS, the State of Georgia is considering the enactment of Senate Bill 418 and the Chairman and Board of Commissioners have reviewed Senate Bill 418;

NOW, THEREFORE, BE IT ORDAINED BY THE CHEROKEE COUNTY BOARD OF COMMISSIONERS as follows:

1.

There is hereby adopted a moratorium on issuance of business licenses to pain management clinics within unincorporated Cherokee County. Said moratorium shall run through April, 2011 with the intention of providing an opportunity for the State of Georgia to address relevant legislation that would impact the County's ability to regulate pain management clinics.

2.

The moratorium shall apply to all privately owned pain management clinics, facilities, or offices (including those which advertise in any medium) for the sale or dispensing of any type of pain management services, or dispensing controlled substance medications, and defined as a Schedule II, III, IV or V controlled substance as defined by Georgia law. A physician is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance

medications when the majority of the patients seen are prescribed or dispensed controlled substance medications for the treatment of chronic nonmalignant pain.

Chronic nonmalignant pain is pain unrelated to cancer which persists: (1) beyond the usual course of the disease or the injury that is the cause of the pain; or (2) more than 90 days after surgery.

3.

The moratorium shall not apply to the following:

(a) A licensed pharmacy of a hospital that dispenses such substances for the purpose of inpatient or outpatient hospital care, a licensed pharmacy of a hospital or retail pharmacy of a hospital that dispenses prescriptions for controlled substances at the time of dismissal or discharge from such a facility, or a licensed pharmacy of a hospital or retail pharmacy of a hospital that dispenses or administers such substances for long-term care patients or inpatient hospice facilities;

(b) An institutional pharmacy that serves only a health care facility, including, but not limited to, a nursing home, an intermediate care home, a personal care home, or a hospice program, which provides inpatient care and which pharmacy dispenses such substances to be administered and used by a patient on the premises of the facility;

(c) A practitioner or other authorized person who administers such a substance; or

(d) A pharmacy operated by, on behalf of, or under contract with the Department of Corrections for the sole and exclusive purpose of providing services in a secure environment to prisoners within a penal institution. This shall include correctional institutions operated by private entities in this state which house inmates under the Department of Corrections.

4.

Conflicting Ordinances Repealed. Any and all Ordinances or parts of Ordinances in conflict herewith shall be, and the same are, hereby repealed to the extent of such conflict.

5.

Effective Date. This Ordinance shall become effective immediately upon passage. **SO ORDAINED this 20th day of July, 2010.**