



BROWARD COUNTY

PHARMACY ASSOCIATION

July 18, 2011

2010-11

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On June 28, 2011, the Sunrise City Commission unanimously approved an ordinance regarding the proliferation of "Pill Mills" by creating a City of Sunrise Pain Medication License (The Ordinance). This ordinance will take effect January 1, 2012. The Ordinance was approved because Mayor Ryan felt the state and federal government were not reacting quickly enough in response to the "Pill Mill" issue.

The Broward County Pharmacy Association (BCPA) understands the City of Sunrise Mayor and Commissioners' concerns regarding the proliferation of "Pill Mills" in South Florida and is on board for the need to control these "Pill Mills". However, the state has taken action. Governor Scott signed HB 7095, which took effect on Jul 1, 2011. Accordingly, BCPA must take exception to many of the provisions included in The Ordinance (pending further revision by the Commission), which we feel are duplicative, discriminatory, or compromise the health and welfare of legitimate patients. These include:

HB 7095 changes permitting requirements, effective July 1, 2012, for those pharmacies that dispense CII and CIII medications, to include fingerprinting requirements and written policies and procedures for preventing controlled substance dispensing based upon fraudulent representations or invalid practitioner-patient relationships. The Ordinance, therefore, places an undue burden and increased cost on small businesses, which may be a violation of Florida Statute 120.541 statement of estimated regulatory costs. This section is also a requirement for pharmacy permits under the Florida Department of Health Permitting requirements. We do not understand why the City of Sunrise would want to expend scarce taxpayer dollars and allocate public resources to create duplicative regulations and public oversight when the State of Florida has a similar system in place.

Exempting "small" (independent) pharmacies that dispense less than 5000 tablets of CII prescriptions a month is discriminatory. The 5000 tablet threshold is unrealistic since The Ordinance does not exempt drugs such as Ritalin, Percocet, Codeine, etc.

Exempting “Big-Box” pharmacies such as Walgreens, CVS, Walmart, etc., is discriminatory and appears to favor large non Florida based business interests over the services provided by legitimate and respectable local pharmacies who are involved in their communities. We are aware of no other small businesses that are handicapped this way and wonder why the City wishes to differentiate a small locally owned taxpaying business simply because it is not a publicly traded company. Any special licenses should be all or none. HB 7095 does not allow for “exempted” pharmacies. How would patients know which pharmacies are exempted and which are not?

Restricting non-exempt pharmacy hours to 9 AM to 7 PM is discriminatory in the sense that it forces legitimate patients (regular pharmacy patients and emergency room patients) to have their medications filled at a different (exempt) pharmacy creating an inconvenience to the patient and eliminating their freedom of choice, as well as creating a competitive advantage for the exempt pharmacy. There are also real clinical and medical issues to consider when patients are forced to use multiple pharmacies for their care. This Ordinance may result in patients having prescriptions filled at several pharmacies. This may not allow their pharmacy providers (both chain and independent) to have a complete medical history thus possibly resulting in missed opportunities to screen for drugs that should not be taken together. Patients may take medications unknowingly that may interact with other drugs that could cause adverse effects resulting in real patient harm. Public policy should promote good patient care and not create opportunities for uncoordinated health care services.

The Ordinance restricts pain management clinic dispensing of CII medications to a 72 hour supply for out of state residents or a 30 days supply for Florida residents. This is in conflict with HB 7095 effective July, 1 2011 which specifically prohibits ANY dispensing of CII medications from the pain management clinic.

The Ordinance prohibits mail order other than to a resident of the City of Sunrise. This has a direct effect on those residents, who, for convenience or perhaps health issues, chose to have their medications delivered by mail order, but who live in a bordering city such as Plantation or Tamarac and use the services of a pharmacy located within the City of Sunrise. We also respectfully ask what happens to residents who move away from the City of Sunrise yet still want to retain their relationship with their local family pharmacy? Also what about patients who may have dual residences where they would live in Florida during the winter and in other states at other times of the year?

The Ordinance requires, as of January 1, 2012, monthly reporting by pharmacies of all CII medications dispensed. The Ordinance requires “a monthly affidavit by the seventh day of each month for the previous month with the police chief identifying types and quantities of schedule II substances as defined in section 7-301”. There is no requirement describing a uniform format, nor is there language protecting patient confidentiality. However, HB 7095 requires reporting of all CII-CIV medications within 7 days of dispensing, beginning October 1, 2011, to the Electronic Florida Online Reporting Controlled Substance Evaluation (E-FORCSE).

The Ordinance has language regarding the security of the prescription department. Security of the prescription department is included in HB 7095, which is already in effect.

The Ordinance specifically lists exempt CII products. However, these products are actually CI substances which are prohibited from being possessed by a pharmacy altogether. This section of The Ordinance appears to be out of sync with the Code of Federal Regulations. These chemicals include:

Phencyclidine (Angel Dust, PCP)
Piperidinocyclohexanecarbonitrile (PCC)
Methamphetamine
Gluthethimide (Doriden)
Phenmetrazine (Preludin)
Amphetamine
Amobarbital
Phenylacetone (P2P)

In light of HB 7095 and E-FORCSE controlled substance reporting, BCPA asks the Mayor and the Commission to reconsider The Ordinance for the above reasons. Members of BCPA are willing to meet with and/or work with the Mayor and the City of Sunrise Commissioners for an equitable solution to this issue.

Respectfully,



Gary G. Koesten, MS, C.Ph.
President
Broward County Pharmacy Association

Organizations in support of the issues raised:
Inter-American Pharmacy Association
Miami-Dade Pharmacy Association
Palm Beach County Pharmacy Association
Florida Pharmacy Association