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11-0-1358

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AN ORDINANCE

BY COUNCILMEMBER
KWANZA HALL

AN ORDINANCE IMPOSING A LIMITED AND TEMPORARY MORATORIUM UPON THE ISSUANCE OF BUSINESS LICENSES TO NEW PAIN MANAGEMENT CLINICS WITHIN THE CITY OF ATLANTA; AND FOR OTHER PURPOSES

AUTOMATICALLY TERMINATED AND FILED BY CLERK PER CHARTER SECTION 2-407

DEC 02 2013

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred 9/16/11

Referred To: Finance/Executive

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee _____
Date _____
Chair _____
Referred To _____

Committee FINANCE EXEC

Date 9.14.11

Chair

Action Fav, Adv, Hold (see rev. side) Other

Members

Refer To

Committee

Date

Chair

Action Fav, Adv, Hold (see rev. side) Other

Members

Refer To

Committee

Date

Chair

Action Fav, Adv, Hold (see rev. side) Other

Members

Refer To

Committee

Date

Chair

Action Fav, Adv, Hold (see rev. side) Other

Members

Refer To

FINAL COUNCIL ACTION

- 2nd
- 1st & 2nd
- 3rd
- Readings
- Consent
- V Vote
- RC Vote

CERTIFIED

CERTIFIED

DEC 02 2013

ATLANTA CITY COUNCIL PRESIDENT

CERTIFIED

DEC 02 2013

Ronda Douglas Johnson
MUNICIPAL CLERK

MAYOR'S ACTION

**AN ORDINANCE
BY COUNCILMEMBER KWANZA HALL**

 **11-0-1358**

**AN ORDINANCE IMPOSING A LIMITED AND TEMPORARY
MORATORIUM UPON THE ISSUANCE OF BUSINESS LICENSES TO
NEW PAIN MANAGEMENT CLINICS WITHIN THE CITY OF
ATLANTA; AND FOR OTHER PURPOSES**

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 "[i]n 2007 there were four 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 nonmedical 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 by almost 50%. One of the age groups that has 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, the City of Atlanta 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, the City of Atlanta 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 the City of Atlanta 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 36 to establish a state-wide electronic database for certain controlled substances and said enactment, if also provided with funding for implementation, may improve the City's ability to regulate pain management clinics; and

WHEREAS, the City of Atlanta desires to impose a temporary and limited moratorium to enable it to review the outcome of such legislation, and to allow for the possible creation of a statewide database for controlled substances and other measures that have proved successful in other states and municipalities.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, AS FOLLOWS:

1.

Section 1: (a) A moratorium is hereby imposed on the issuance of business licenses to pain management clinics within the City of Atlanta. Said moratorium shall be in effect for a period of one (1) year beginning on the date of the approval of this ordinance, with the intention of providing an opportunity for the Georgia General Assembly to address relevant legislation that would impact the City's ability to regulate pain management clinics and provide the City of Atlanta an opportunity to develop ordinances and/or regulations that address the secondary effects of pain management clinics on individuals and the community.

2.

(b) 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.

3.

(c) The moratorium shall not apply to the following:

1. 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;
2. 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;
3. A practitioner or other authorized person who administers such a substance; or
4. A pharmacy operated by, on behalf of, or under contract with the Georgia 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 on behalf of the Georgia Department of Corrections.
5. A licensed stand-alone retail pharmacy or a licensed pharmacy that is part of a grocery store.

Section 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of any such conflict.