

MEMORANDUM

Agenda Item No. 4(B)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: September 17, 2024

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to the Miami-Dade County HIV/AIDS Partnership; amending sections 2-1102 and 2-1103 of the Code; revising membership, organization, and quorum requirements; making technical and conforming changes

The accompanying ordinance was prepared by the Office of Management and Budget and placed on the agenda at the request of Prime Sponsor Senator René García.



Geri Bonzon-Keenan
County Attorney

GBK/gh

MDC001

Memorandum



Date: September 17, 2024

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor *Daniella Levine Cava*

Subject: Ordinance Amending Sections 2-1102 and 2-1103 of the Code of Miami-Dade County
Concerning the Miami-Dade HIV/AIDS Partnership

Executive Summary

This item seeks to amend Sections 2-1102 and 2-1103 of the Code of Miami-Dade County regarding the Miami-Dade HIV/AIDS Partnership (Partnership). The Partnership, in its capacity as a Miami-Dade County (County) advisory board, approved recommended changes to the governing ordinance for consideration and approval by the Miami-Dade County Board of County Commissioners (Board).

The proposed changes are intended to improve the efficiency and effectiveness of the Partnership by:

- redefining quorum requirements;
- reducing the total number of Partnership membership seats;
- removing alternate membership seats;
- redefining two membership seats and seats for ex-officio members;
- reclassifying two membership seats; and
- bringing Partnership membership categories as defined in the County Ordinance in line with the program's legislative definitions for required membership seats.

Recommendation

It is recommended that the Board approve the attached ordinance amending Sections 2-1102 and 2-1103 of the Code of Miami-Dade County, Florida concerning the Partnership by revising membership requirements and organizational structure.

Scope

The impact of this amended ordinance is countywide, as the Partnership is responsible for priority setting and funding allocation decisions regarding HIV/AIDS services for all of Miami-Dade County.

Delegation of Authority

Upon adoption of the amended ordinance, the County Mayor will be authorized to appoint members to the Partnership in accordance with the amended ordinance.

Fiscal Impact/Funding Source

The proposed changes to the ordinance will not create any fiscal impact on the County. Activities of the Partnership are solely federally funded by the U.S. Department of Health and Human Services, Health Resources and Services Administration (HRSA), through the Ryan White Part A Program grant. No County matching funds are required.

Social Equity Statement

The proposed ordinance prioritizes equity by promoting diverse representation, meaningful participation, accessibility, and inclusivity. Restructuring the seats ensures affected communities, including people with HIV, members of Federally Recognized Indian Tribes, and those co-infected with Hepatitis B or C, are appropriately represented. By aligning membership categories with HRSA guidelines and removing obsolete seats, the Partnership will better reflect our County's HIV/AIDS community. Also, adjustments to quorum requirements and the removal of alternate seats will facilitate meaningful participation and

minimize the cancellation of meetings due to a lack of quorum. Renaming membership categories to use people-first language (“people with HIV” instead of “individuals with HIV disease”) underscores our commitment to dignify and respect people affected by HIV/AIDS. Lastly, the shift to “ex officio representatives” ensures broader participation from relevant stakeholders without voting rights, enhancing transparency and collaboration. By implementing these changes, Miami-Dade County reaffirms its commitment to serving vulnerable populations with transparency, fairness, and respect.

Track Record/Monitor

The Grants Coordination Division of the Office of Management and Budget will be responsible for ensuring activities of the Partnership are compliant with local, state and federal programmatic, fiscal and administrative requirements. Daniel T. Wall, Office of Management and Budget Assistant Director, is the Program Director for this project.

Background

The Partnership evolved from the Miami-Dade County HIV Health Services Planning Council, which was established in 1994 to meet federal funding requirements under Title I of the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act. In 1998, the Board created the Partnership to enable the County to apply for, receive, plan for, assess, and allocate financial assistance under the Title XXVI of the Public Health Service Act, as amended by the Ryan White HIV/AIDS Treatment Modernization Act of 2006 (Ryan White Program), and other HIV/AIDS-related funding as it becomes available; and to advise the Board, the County Mayor, and other governmental entities on HIV/AIDS-related issues. The Ryan White Program consists of multiple parts: Parts A, B, C, D, and F.

The Partnership determines the HIV/AIDS-related needs of the community as identified through local needs assessment activities, establishes service priorities, and allocates funding to the areas of greatest need as defined by the Federal granting agency, HRSA. The Partnership is dedicated to developing and coordinating integrated prevention, care and treatment, and housing services for people with HIV in Miami-Dade County that fulfill the requirements of various state and federal HIV/AIDS grant programs.

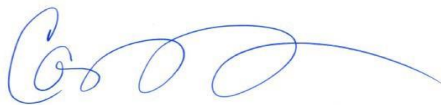
Presently, Partnership membership does not meet legislative requirements of the Ryan White Part A Program, which is managed by the County’s Office of Management and Budget. Additionally, due to the current total number of membership seats – 39 members appointed by the County Mayor – and quorum rules, it is difficult to obtain quorum for meetings. Without quorum, the Partnership cannot meet and discuss critical business items. Therefore, a restructuring of the Partnership’s quorum requirement and membership is necessary, as follows:

- Change the Partnership quorum requirement from “no less than thirteen (13) voting Partnership members” to “no less than one-third of active members plus one (1/3 + 1).”
 - This change is needed to effectively conduct Partnership business and reduce the number of canceled meetings due to lack of quorum.
- Remove the “Ryan White Program Part A local grantee” seat and replace it with “Representative of Miami-Dade County who shall not be a Ryan White Program recipient representative, whose position is not funded by Part A of the Ryan White HIV/AIDS Program (RWHAP), who does not provide in-kind services, and who has no significant involvement in the RWHAP Part A grant.”
 - Historically, since the Partnership’s inception, the “Miami-Dade County Representative” seat has been filled by Part A recipient staff with no objection from HRSA. However, the filled seat does not meet HRSA’s current interpretation of the membership rules in the CARE Act legislation, as stated in their Ryan White HIV/AIDS Program Part A Recipient Letter, dated August 29, 2023. That letter states, “Separation of [Planning

Council/Planning Body] PC/PB and Recipient Roles: A separation of PC/PB and recipient roles is necessary to avoid conflicts of interest. The legislation prohibits PC public deliberations to be “chaired solely by an employee of the grantee.” [Section 2602(b)(7)(A) of Title XXVI of the Public Health Service Act]. A recipient representative, whose position is funded with RWHAP Part A funds, provides in-kind services, or has significant involvement in the RWHAP Part A grant, shall not occupy a seat in the PC/PB, nor have a vote in the deliberations of the PC/PB.”

- Reduce the “Representative of Affected Community” membership seats from 15 to 10 members.
 - Members of the affected community must comprise 33 percent of membership. If membership is reduced to 30 members, 10 members of the affected community would constitute at least 33 percent, a more manageable membership total.
- Incorporate the currently separate “Federally Recognized Indian Tribe Representative” and “Representative Co-infected with Hepatitis B or C” membership seats into existing “Representative of Affected Community” membership seats, as noted below.
- Rename the “Represented of Affected Community” membership seat to match HRSA language, “Member representatives of the affected communities, including people with HIV, or members of a Federally Recognized Indian Tribe as represented in the population, or individuals co-infected with hepatitis B or C, and historically underserved groups and subpopulations.”
- Remove the current “Federally Recognized Indian Tribe Representative” membership seat.
 - This is not an HRSA-required seat by itself. It is within the collective designation of, “affected communities, including members of a Federally Recognized Indian Tribe...”, as noted above.
 - This seat has been vacant for much of the life of the Partnership.
 - Grouping the designation with “Members of the Affected Community...” leaves the opportunity open for participation while relieving the burden of filling a highly specified vacant seat.
- Remove the current “Representative co-infected with Hepatitis B or C” membership seat.
 - This is not an HRSA-required seat by itself. It is within the collective designation of, “affected communities, including ... individuals co-infected with Hepatitis B or C...”, as noted above.
 - This seat has been vacant for much of the life of the Partnership.
 - Grouping the designation with “Members of the Affected Community...” leaves the opportunity open for participation while relieving the burden of filling a highly specified vacant seat.
- Remove the current “Miami-Dade County Public Schools Representative” membership seat.
 - This is not an HRSA-required seat.
 - The seat has been vacant for much of the life of the Partnership.
 - This designation would move to ex officio status leaving the opportunity open for participation from the local school board, while relieving the burden of filling a highly specified vacant seat.

- Remove the current “State of Florida General Revenue Grantee Representative” membership seat.
 - This is not an HRSA-required seat. Reports regarding HIV-related General Revenue funding, expenditures, and service utilization would still be included in regular Partnership business.
- Remove the three “Alternates – Representatives of the Affected Community” seats.
 - These are not HRSA-required seats.
 - These seats have been vacant for more than five years in addition to the full voting member vacancies in the same category.
 - These seats are obsolete. Back in the early years of the Partnership, there was a need for alternate affected community members, primarily due to health concerns. The removal of these seats reflects the reality of the HIV epidemic today, in which people with HIV who are in care and receiving treatment are living longer and healthier lives.
 - Persons who occupy these seats have no voting power; and if they sit on the Partnership for two terms without ever voting, they would then be ineligible to serve as a voting member until after a two-year waiting period ends.
- Change the designation of the two “ex officio members” seats to “ex officio representatives”; add Miami-Dade County Public Schools Representative; and retain representative seats from the Office of the Mayor of Miami-Dade County and Miami-Dade County Board of County Commissioners, for a total of three “ex officio representative” seats.
 - These are not HRSA-required categories.
 - These are non-voting seats.
 - These seats have been vacant for much of the life of the Partnership.
 - Moving the designation from “ex officio member” to “ex officio representative” status leaves the opportunity for participation while relieving the burden of filling highly specified vacancies.
- Change all instances of “individuals with HIV disease” to “people (or person) with HIV” following HRSA’s preferred people first language.
- The remaining membership categories require no change.



Carladenise Edwards
Chief Administrative Officer



MEMORANDUM
(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: September 17, 2024

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 4(B)

Please note any items checked.

- “3-Day Rule” for committees applicable if raised**
- 6 weeks required between first reading and public hearing**
- 4 weeks notification to municipal officials required prior to public hearing**
- Decreases revenues or increases expenditures without balancing budget**
- Budget required**
- Statement of fiscal impact required**
- Statement of social equity required**
- Ordinance creating a new board requires detailed County Mayor’s report for public hearing**
- No committee review**
- Applicable legislation requires more than a majority vote (i.e., 2/3’s present ____, 2/3 membership ____, 3/5’s ____, unanimous ____, majority plus one ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3) (h) or (4)(c) ____, CDMP 9 vote requirement per 2-116.1(4)(c) (2) ____) to approve**
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 4(B)
9-17-24

ORDINANCE NO. _____

ORDINANCE RELATING TO THE MIAMI-DADE COUNTY HIV/AIDS PARTNERSHIP; AMENDING SECTIONS 2-1102 AND 2-1103 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REVISING MEMBERSHIP, ORGANIZATION, AND QUORUM REQUIREMENTS; MAKING TECHNICAL AND CONFORMING CHANGES; AND PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 2-1102 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 2-1102. Membership requirements; appointments of members; terms; removal.

- (a) All members of the Partnership shall be permanent residents and electors of Miami-Dade County, unless the Board of County Commissioners, by a two-thirds vote of its membership, waives this requirement and shall have reputations for integrity and community service. Notwithstanding the qualified elector requirement stated herein and in Section 2-11.38 of the Code of Miami-Dade County, applicants for or members of the Partnership who are appointed by the County Mayor to fill the seats of the ~~[[13 individuals with HIV disease]]~~ >>10 persons<< as described in Section 2-1102(b)(1) or one former inmate of a local, state, or federal prison as described in Section 2-

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

1102(b)(18) of this code shall be exempt from any qualified elector requirement.

- (b) The Partnership shall be composed of ~~[[thirty-nine (39)]]~~ >>30<< voting members from the following categories of representatives:
- (1) ~~[[Fifteen (15)]]~~ >>10<< member representatives of the affected communities, ~~[[that include 13 individuals with HIV disease who are not affiliated or employed by a Part A funded provider and are recipients of Part A services, and historically underserved groups and subpopulations that reflect the demographics of the population within the eligible metropolitan area]]~~ >>including persons with HIV, or members of a federally recognized Indian tribe as represented in the population, or individuals co-infected with hepatitis B or C, and historically underserved groups and subpopulations<<;
 - (2) One ~~[[4 Health]]~~ >>health<< care provider, which must represent a Federally Qualified Health Center;
 - (3) One ~~[[4 Community]]~~ >>community<< based AIDS service organization;
 - (4) Two ~~[[2 Housing, Homeless or Social Service]]~~ >>housing, homeless or social service<< providers;
 - (5) One ~~[[4 Mental]]~~ >>mental<< health provider;
 - (6) One ~~[[4 Substance]]~~ >>substance<< abuse provider;
 - (7) One ~~[[4]]~~ HIV prevention provider;
 - (8) One ~~[[4]]~~ Hospital or health care planning agency;
 - (9) One ~~[[4]]~~ representative from agencies receiving grants under Part C of the Ryan White Program;
 - (10) One ~~[[4]]~~ representative from agencies receiving grants under Part D of the Ryan White Program, or from organizations with a history of providing services to children, youth, and families if funded locally>>, excluding a recipient representative from the Ryan White Part A Program<<;
 - (11) Four ~~[[4]]~~ grantee representatives of Other Federal HIV programs including Ryan White Program Part F and HOPWA, if funded locally;

- (12) ~~[[One (1) Ryan White Program Part A local grantee]]~~ >> One representative of Miami-Dade County who shall not be a Ryan White Program recipient representative, whose position is not funded by Part A of the Ryan White HIV/AIDS Program (RWHAP), who does not provide in-kind services, and who has no significant involvement in the RWHAP Part A grant<<;
 - (13) One ~~[[(+1) State]]~~ >>state<< government/Ryan White Program Part B grantee representative;
 - (14) One ~~[[(+1) State]]~~ >>state<< government/Medicaid Agency representative;
 - (15) One ~~[[(+1) Local]]~~ >>local<< public health agency representative from the Miami-Dade County Health Department >>(Florida Department of Health in Miami Dade County)<<;
 - (16) ~~[[One (1) Miami-Dade County Public Schools representative;(17)]]~~ One ~~[[(+1)]]~~ Non-elected community leader who does not provide HIV related health care services subject to funding under Partnership programs;
 - ~~[[(+18)]]~~>>(17)<< One ~~[[(+1)]]~~ former inmate of a local, state, or federal prison released from the custody of the penal system during the preceding three ~~[[(+3)]]~~ years and ~~[[had HIV disease]]~~ >>diagnosed with HIV<< as of the date of ~~[[his]]~~ >>their<< release, or a representative of ~~[[HIV+ incarcerated persons;]]~~ >>an incarcerated person with HIV.<<
 - ~~[[(+19) One (1) State of Florida General Revenue grantee representative;~~
 - ~~(20) One (1) representative of a federally recognized Indian tribe as represented in the population from the affected community;]]~~
 - ~~(21) One (1) representative co-infected with hepatitis B or C from the affected community.]]~~
- (c) Ex officio members shall be appointed in the same manner by which voting members are appointed, and at a minimum shall include ~~[[ex officio members]]~~ >>ex officio representatives<< from the following categories of representatives:

- (1) One ~~[[4]]~~ representative from the Office of the Mayor;
- (2) One ~~[[4]]~~ representative from the Board of County Commissioners; >> and
- (3) One representative from Miami-Dade County Public Schools.<<

(d) ~~[[Three (3) representatives of the affected community who are not affiliated or employed by a Part A funded provider, and are recipients of Part A services shall also be appointed as alternates. Alternate members may be assigned as voting members of committees, but are non-voting members of the full Partnership except when the voting member appointed to that category of representatives is unable to serve, at which time an alternate member of the same category of representatives designated by the chairperson shall serve as voting member for the full Partnership.~~

~~(e)]~~ The Partnership shall maintain at all times a fair and open nominations process as written in its By-Laws which shall result in a recommended slate of candidates, ~~[[including alternates,]]~~ which is forwarded to the County Mayor for ~~[[his]]>>their<<~~ consideration. Members ~~[[and alternates]]~~ shall be appointed by the County Mayor, who shall designate which category listed in subsections (a) and (b) above each member shall represent. Members shall be appointed in accordance with Sections 2-1102, 2-11.38 and 2-11.38.1 of the Code of Miami-Dade County. To the extent that the County Mayor or the County Mayor's designee conducts criminal background screening of all candidates recommended by the Partnership to be appointed by the County Mayor, the County Mayor or County Mayor's designee shall only deny such candidates if they have been convicted of a violent crime within five years of the date the County Mayor or County Mayor's designee receives a recommendation for appointment from the Partnership. Additionally, the County Mayor or the County Mayor's designee shall deny any candidate who has registered as a sex offender regardless of when such candidate has been convicted of such sexual offense. Whenever feasible, the County Mayor or County Mayor's designee shall expedite such criminal background screening. Whenever feasible the County Mayor shall either appoint or deny a candidate

within 20 days of receipt of the recommendation from the Partnership.

~~[(f)]~~>>(e)<< Vacancies on the Partnership shall be filled in the same manner as above ~~[[, except for affected community positions, which may be filled by an affected community alternate member appointed by the Partnership]]~~.

~~[(g)]~~>>(f)<< Appointment shall comply with the following requirements:

- (1) Composition of the Partnership shall reflect in its composition the demographics of the epidemic in Miami-Dade County with particular consideration given to disproportionately affected and historically underserved groups, subpopulations, and geographic areas in Miami-Dade County.
- (2) Composition of the Partnership, including committee membership, shall strive to assure the following:
 - (A) Parity, with each member having equal opportunity for input and participation as well as equal voice in voting and other decision making activities;
 - (B) Inclusiveness, that all affected communities are represented and involved in a meaningful manner in the community planning process;
 - (C) Representation, that members who represent a specific community truly reflect that community's values, norms and behaviors.

The foregoing requirements set forth in subsections ~~[(g)]~~>>(f)<<(1) and (2) above shall not apply to ad hoc committees and workgroups established by the Partnership from time to time.

- (3) No more than ~~[[fifteen-]]~~15~~[[]]~~ individuals shall be appointed to the Partnership who personally provide, who represent entities that provide, or who otherwise possess a financial relationship with entities that provide HIV related services funded by Partnership programs.
- (4) No funded provider shall have more than one ~~[(4)]~~ representative or employee as a member, except as mandated by the legal requirements of Partnership programs.

~~[(h)]~~>>(g)<< The term of office of members shall be in accordance with Section 2-11.38.2 of the Code of Miami-Dade County. Members shall be appointed to three ~~[(3)]~~ year terms, except that initially ~~twelve~~ 12 ~~[(12)]~~ members shall be appointed to a one ~~[(1)]~~ year term and ~~twelve~~ 12 ~~[(12)]~~ members appointed to a two ~~[(2)]~~ year term.

~~[(i)]~~>>(h)<< No member shall be permitted to serve more than two ~~[(2)-year]~~ consecutive and complete terms of three ~~[(3) year]~~ years except as required by law. Notwithstanding the term limit requirements set forth herein, members appointed to fill government or grantee seats are excepted from these requirements and shall serve as members of the Partnership for as long as they are designated by their respective agencies to serve in this capacity.

~~[(j)]~~>>(i)<< Attendance requirements for members shall be in accordance with Section 2-11.39, except that five ~~[(5)]~~ absences, excused or unexcused, in any fiscal year shall also constitute grounds for removal and except absences that are due to Partnership business related travel are not counted against the total of five ~~[(5)]~~ absences. If a member appointed to represent a category listed in subsection (a) or (b) above loses such representative status, fails to maintain the qualifications for membership set forth in Section 2-11.38, fails to maintain attendance requirements, voluntarily resigns, or for other good cause is removed, the member shall forfeit membership on the Partnership.

~~[(k)]~~>>(j)<< Members shall serve without compensation but shall be entitled to reimbursement for necessary authorized expenses incurred in the discharge of their duties pursuant to policies and procedures published by the County.

Section 2. Section 2-1103 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 2-1103. Organization.

- (a) The Partnership shall establish, adopt, and amend bylaws, rules, and regulations for its own governance.
- (b) The Partnership shall elect a chairperson and a chair-elect from among its members, who shall serve at the will of the Partnership. The chairperson and chair-elect shall not personally provide, represent entities that provide, or

otherwise possess a financial relationship with entities that provide HIV related services funded by programs under the purview of the Partnership. The chairperson and chair-elect shall not be a representative of a grantee organization for any HIV/AIDS related program under the purview of the Partnership.

- (c) The chairperson shall preside at all meetings at which he or she is present. The chair-elect shall act as chairperson in the absence or inability of the chairperson.
- (d) The Partnership shall have assistance from staff designated by the county manager and other governmental entities and legal representation from the county attorney's office. The staff shall maintain and keep the records of the Partnership; prepare, in cooperation with the chairperson, the agenda for each meeting; be responsible for the preparation of such reports, minutes, documents, resolutions or correspondences as the Partnership may direct; and generally administer the business and affairs of the Partnership, subject to budgetary limitations.
- (e) In order to transact any business or to exercise any power vested in the Partnership, a quorum consisting of ~~[[no less than thirteen (13) voting members]]~~ >>no less than one-third of active members plus one<< shall be present.
- (f) All meetings of the Partnership shall be open to the public and shall be held only after adequate notice to the public. The records, reports, transcripts, minutes agenda and other documents which are made available to or prepared for or by the Partnership shall be available for public inspection and copying at a single location consistent with Chapter 119 of the Florida Statutes and the Federal Advisory Council Act.
- (g) The Partnership shall not transact business or exercise its powers unless a majority of the quorum in attendance agrees to the activity. The chairperson, or five (5) Partnership members upon written request to the chairperson, may call for a special meeting.
- (h) The Partnership may appoint committees to accomplish its tasks, and may appoint as committee members individuals who are not Partnership members.
- (i) Each committee shall strive to maintain no less than one-third ($\frac{1}{3}$) membership by representatives of the affected community.

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

MAG for GBK

Prepared by:

ASA

Terrence A. Smith