

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 188

BY SENATOR TAKUBO

[Introduced February 8, 2017; referred
to the Committee on Health and Human Resources]

1 A BILL to amend and reenact §16-5Y-2 of the Code of West Virginia, 1931, as amended, relating
2 to clarifying the definition of “telehealth” for purposes of medication-assisted treatment
3 programs.

Be it enacted by the Legislature of West Virginia:

1 That §16-5Y-2 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 5Y. MEDICATION-ASSISTED TREATMENT PROGRAM LICENSING ACT.

§16-5Y-2. Definitions.

1 (a) “Addiction” means a primary, chronic disease of brain reward, motivation, memory and
2 related circuitry. Dysfunction in these circuits leads to characteristic biological, psychological,
3 social and spiritual manifestations, which is reflected in an individual pathologically pursuing
4 reward or relief by substance use, or both, and other behaviors. Addiction is characterized by
5 inability to consistently abstain; impairment in behavioral control; craving; diminished recognition
6 of significant problems with one’s behaviors; interpersonal problems with one’s behaviors and
7 interpersonal relationships; a dysfunctional emotional response; and as addiction is currently
8 defined by the American Society of Addiction Medicine.

9 (b) “Administrator” means an individual designated by the governing body to be
10 responsible for the day-to-day operation of the opioid treatment programs.

11 (c) “Advanced alcohol and drug abuse counselor” means an alcohol and drug abuse
12 counselor who is certified by the West Virginia Certification Board for Addiction and Prevention
13 Professionals who demonstrates a high degree of competence in the addiction counseling field.

14 (d) “Alcohol and drug abuse counselor” means a counselor certified by the West Virginia
15 Certification Board for Addiction and Prevention Professionals for specialized work with patients
16 who have substance use problems.

17 (e) “Biopsychosocial” means of, relating to or concerned with, biological, psychological
18 and social aspects in contrast to the strictly biomedical aspects of disease.

19 (f) “Center for Substance Abuse Treatment” means the center under the Substance Abuse
20 and Mental Health Services Administration that promotes community-based substance abuse
21 treatment and recovery services for individuals and families in the community and provides
22 national leadership to improve access, reduce barriers and promote high quality, effective
23 treatment and recovery services.

24 (g) “Controlled Substances Monitoring Program database” means the database
25 maintained by the West Virginia Board of Pharmacy pursuant to section three, article nine, chapter
26 sixty-a of this code that monitors and tracks certain prescriptions written or dispensed by
27 dispensers and prescribers in West Virginia.

28 (h) “Director” means the Director of the Office of Health Facility Licensure and Certification.

29 (i) “Dispense” means the preparation and delivery of a medication-assisted treatment
30 medication in an appropriately labeled and suitable container to a patient by a medication-assisted
31 treatment program or pharmacist.

32 (j) “Governing body” means the person or persons identified as being legally responsible
33 for the operation of the opioid treatment program. A governing body may be a board, a single
34 entity or owner, or a partnership. The governing body must comply with the requirements
35 prescribed in rules promulgated pursuant to this article.

36 (k) “Medical director” means a physician licensed within the State of West Virginia who
37 assumes responsibility for administering all medical services performed by the medication-
38 assisted treatment program, either by performing them directly or by delegating specific
39 responsibility to authorized program physicians and health care professionals functioning under
40 the medical director’s direct supervision and functioning within their scope of practice.

41 (l) “Medication-assisted treatment” means the use of medications and drug screens, in
42 combination with counseling and behavioral therapies, to provide a holistic approach to the
43 treatment of substance use disorders.

44 (m) “Medication-assisted treatment program” means all publicly and privately owned

45 opioid treatment programs and office based medication-assisted treatment programs, which
46 prescribe medication-assisted treatment medications and treat substance use disorders, as those
47 terms are defined in this article.

48 (n) "Medication-assisted treatment medication" means any medication that is approved by
49 the United States Food and Drug Administration under Section 505 of the Federal Food, Drug
50 and Cosmetic Act, 21 U. S. C. § 355, for use in the treatment of substance use disorders that is
51 an opioid agonist and is listed on the schedule of controlled substances in article two, chapter
52 sixty-a of this code.

53 (o) "Office based medication-assisted treatment" means all publicly or privately owned
54 medication-assisted treatment programs in clinics, facilities, offices or programs that treat
55 individuals with substance use disorders through the prescription, administration or dispensing of
56 a medication-assisted treatment medication in the form of a partial opioid agonist or other
57 medication-assisted medication approved for use in office-based, medication-assisted treatment
58 setting.

59 (p) "Opioid agonist" means substances that bind to and activate the opiate receptors
60 resulting in analgesia and pain regulation, respiratory depression and a wide variety of behavioral
61 changes. As used in this article, the term "opioid agonist" does not include partial agonist
62 medications used as an alternative to opioid agonists in the treatment of opioid addiction.

63 (q) "Opioid treatment program" means all publicly or privately owned medication-assisted
64 treatment programs in clinics, facilities, offices or programs that treat individuals with substance
65 use disorders through on-site administration or dispensing of a medication-assisted treatment
66 medication in the form of an opioid agonist or partial opioid agonist.

67 (r) "Owner" means any person, partnership, association or corporation listed as the owner
68 of a medication-assisted treatment program on the licensing or registration forms required by this
69 article.

70 (s) "Partial opioid agonist" means a Federal Drug Administration approved medication that

71 is used as an alternative to opioid agonists for the treatment of substance use disorders and that
72 binds to and activates opiate receptors, but not to the same degree as full agonists.

73 (t) "Physician" means an individual licensed in this state to practice allopathic medicine or
74 surgery by the West Virginia Board of Medicine or osteopathic medicine or surgery by the West
75 Virginia Board of Osteopathic Medicine and that meets the requirements of this article.

76 (u) "Prescriber" means a person authorized in this state, working within their scope of
77 practice, to give direction, either orally or in writing, for the preparation and administration of a
78 remedy to be used in the treatment of substance use disorders.

79 (v) "Program sponsor" means the person named in the application for the certification and
80 licensure of a an opioid treatment program who is responsible for the administrative operation of
81 the opioid treatment program and who assumes responsibility for all of its employees, including
82 any practitioners, agents or other persons providing medical, rehabilitative or counseling services
83 at the program.

84 (w) "Secretary" means the Secretary of the West Virginia Department of Health and
85 Human Resources or his or her designee.

86 (x) "State opioid treatment authority" means the agency or individual designated by the
87 Governor to exercise the responsibility and authority of the state for governing the treatment of
88 substance use disorders, including, but not limited to, the treatment of opiate addiction with opioid
89 drugs.

90 (y) "State oversight agency" means the agency or office of state government identified by
91 the secretary to provide regulatory oversight of medication-assisted treatment programs on behalf
92 of the State of West Virginia.

93 (z) "Substance" means the following:

94 (1) Alcohol;

95 (2) Controlled substances defined by sections two hundred four, two hundred six, two
96 hundred eight, and two hundred ten, article two, chapter sixty-a of this code; or

97 (3) Any chemical, gas, drug or medication consumed which causes clinically and
98 functionally significant impairment, such as health problems, disability and failure to meet major
99 responsibilities at work, school or home.

100 (aa) "Substance Abuse and Mental Health Services Administration" means the agency
101 under the United States Department of Health and Human Services responsible for the
102 accreditation and certification of medication-assisted treatment programs and that provides
103 leadership, resources, programs, policies, information, data, contracts and grants for the purpose
104 of reducing the impact of substance abuse and mental or behavioral illness.

105 (bb) "Substance use disorder" means patterns of symptoms resulting from use of a
106 substance that the individual continues to take, despite experiencing problems as a result; or as
107 defined in the most recent edition of the American Psychiatric Association's Diagnostic and
108 Statistical Manual of Mental Disorders.

109 (cc) "Telehealth" means the mode of delivering health care services and public health via
110 information and communication technologies to facilitate the diagnosis, consultation, treatment
111 education, care management and self-management of a patient's health care while the patient is
112 at the originating site and the health ~~care~~ care provider is at a distant site.

113 (dd) "Variance" means written permission granted by the secretary to a medication-
114 assisted treatment program that a requirement of this article or rules promulgated pursuant to this
115 article may be accomplished in a manner different from the manner set forth in this article or
116 associated rules.

117 (ee) "Waiver" means a formal, time-limited agreement between the designated oversight
118 agency and the medication-assisted treatment program that suspends a rule, policy or standard
119 for a specific situation so long as the health and safety of patients is better served in the situation
120 by suspension of the rule, policy or standard than by enforcement.

NOTE: The purpose of this bill is to correct the definition of telehealth in the medication assisted treatment portion of the code.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.