

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**Originating**

## **House Bill 3132**

BY DELEGATE ROHRBACH

[Originating in the Committee on Prevention and  
Treatment of Substance Abuse; Reported on  
February 14, 2019.]



1 A BILL to amend and reenact §16-5Y-4 of the Code of West Virginia, 1931, as amended, relating  
2 to exempting providers that serve no more than 30 patients with office-based medication-  
3 assisted treatment from complying with the legislative rule and exempting licensed  
4 behavioral health centers providing office-based medication-assisted treatment from  
5 registration requirements but requiring them to attest and provide information to the Office  
6 of Health Facilities Licensure and Certification.

*Be it enacted by the Legislature of West Virginia:*

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

**§16-5Y-4. Office-based, medication-assisted treatment programs to obtain registration;  
application; fees and inspections.**

1 (a) No person, partnership, association, or corporation may operate an office-based,  
2 medication-assisted treatment program without first obtaining a registration from the secretary in  
3 accordance with the provisions of this article and the rules lawfully promulgated pursuant to this  
4 article.

5 (b) Any person, partnership, association, or corporation desiring a registration to operate  
6 an office-based, medication-assisted treatment program in this state shall file with the Office of  
7 Health Facility Licensure and Certification an application in such form and with such information  
8 as the secretary shall prescribe and furnish accompanied by an application fee.

9 (c) The Director of the Office of Health Facility Licensure and Certification or his or her  
10 designee shall inspect and review all documentation submitted with the application. The director  
11 shall then provide a recommendation to the secretary whether to approve or deny the application  
12 for registration. The secretary shall issue a registration if the facility is in compliance with the  
13 provisions of this article and with the rules lawfully promulgated pursuant to this article.

14 (d) A registration shall be issued in one of three categories:

15 (1) An initial 12-month registration shall be issued to an office-based, medication-assisted  
16 treatment program establishing a new program or service for which there is insufficient consumer

17 participation to demonstrate substantial compliance with this article and with all rules promulgated  
18 pursuant to this article;

19 (2) A provisional registration shall be issued when an office-based, medication-assisted  
20 treatment program seeks a renewal registration, or is an existing program as of the effective date  
21 of this article and is seeking an initial registration, and the office-based, medication-assisted  
22 treatment program is not in substantial compliance with this article and with all rules promulgated  
23 pursuant to this article, but does not pose a significant risk to the rights, health, and safety of a  
24 consumer. It shall expire not more than six months from the date of issuance, and may not be  
25 consecutively reissued; or

26 (3) A renewal registration shall be issued when an office-based, medication-assisted  
27 treatment program is in substantial compliance with this article and with all rules promulgated  
28 pursuant to this article. A renewal registration shall expire not more than one year from the date  
29 of issuance.

30 (e) At least 60 days prior to the registration expiration date, an application for renewal shall  
31 be submitted by the office-based, medication-assisted treatment program to the secretary on  
32 forms furnished by the secretary. A registration shall be renewed if the secretary determines that  
33 the applicant is in compliance with this article and with all rules promulgated pursuant to this  
34 article. A registration issued to one program location pursuant to this article is not transferrable  
35 or assignable. Any change of ownership of a registered office-based, medication-assisted  
36 treatment program requires submission of a new application. The office-based, medication-  
37 assisted treatment program shall notify the secretary of any change in ownership within 10 days  
38 of the change and must submit a new application within the time frame prescribed by the  
39 secretary.

40 (f) Any person, partnership, association, or corporation seeking to obtain or renew a  
41 registration for an office-based, medication-assisted treatment program in this state must submit  
42 to the secretary the following documentation:

- 43 (1) Full operating name of the program as advertised;
- 44 (2) Legal name of the program as registered with the West Virginia Secretary of State;
- 45 (3) Physical address of the program;
- 46 (4) Preferred mailing address for the program;
- 47 (5) Email address to be used as the primary contact for the program;
- 48 (6) Federal Employer Identification Number assigned to the program;
- 49 (7) All business licenses issued to the program by this state, the state Tax Department,
- 50 the Secretary of State, and all other applicable business entities;
- 51 (8) Brief description of all services provided by the program;
- 52 (9) Hours of operation;
- 53 (10) Legal Registered Owner Name – name of the person registered as the legal owner
- 54 of the program. If more than one legal owner (i.e., partnership, corporation, etc.) list each legal
- 55 owner separately, indicating the percentage of ownership;
- 56 (11) Medical director's full name, medical license number, Drug Enforcement
- 57 Administration registration number, and a listing of all current certifications;
- 58 (12) For each physician, counselor, or social worker of the program, provide the following:
- 59 (A) Employee's role and occupation within the program;
- 60 (B) Full legal name;
- 61 (C) Medical license, if applicable;
- 62 (D) Drug Enforcement Administration registration number, if applicable;
- 63 (E) Drug Enforcement Administration identification number to prescribe buprenorphine for
- 64 addiction, if applicable; and
- 65 (F) Number of hours worked at program per week;
- 66 (13) Name and location address of all programs owned or operated by the applicant;
- 67 (14) Notarized signature of applicant;
- 68 (15) Check or money order for registration fee;

69           (16) Verification of education and training for all physicians, counselors, and social  
70 workers practicing at or used by referral by the program such as fellowships, additional education,  
71 accreditations, board certifications, and other certifications; and

72           (17) Board of Pharmacy Controlled Substance Prescriber Report for each prescriber  
73 practicing at the program for the three months preceding the date of application.

74           (g) Upon satisfaction that an applicant has met all of the requirements of this article, the  
75 secretary shall issue a registration to operate an office-based, medication-assisted treatment  
76 program. An entity that obtains this registration may possess, have custody or control of, and  
77 dispense drugs indicated and approved by the United States Food and Drug Administration for  
78 the treatment of substance use disorders.

79           (h) The office-based, medication-assisted treatment program shall display the current  
80 registration in a prominent location where services are provided and in clear view of all patients.

81           (i) The secretary or his or her designee shall perform complaint and verification inspections  
82 on all office-based, medication-assisted treatment programs that are subject to this article and all  
83 rules adopted pursuant to this article to ensure continued compliance.

84           (j) Any person, partnership, association, or corporation operating an office-based,  
85 medication-assisted treatment program shall be permitted to continue operation until the effective  
86 date of the new rules promulgated pursuant to this article. At that time a person, partnership,  
87 association, or corporation shall file for registration within six months pursuant to the licensing  
88 procedures and requirements of this section and the new rules promulgated hereunder. The  
89 existing procedures of the person, partnership, association, or corporation shall remain effective  
90 until receipt of the registration.

91           (k) A person, partnership, association, or corporation providing office-based, medication-  
92 assisted treatment to no more than 30 patients of their practice or program is exempt from the  
93 registration requirement contained in §16-5Y-4(a) of this code: *Provided*, That it:

94 ~~(1) Operates in compliance with all legislative rules promulgated pursuant to this article~~  
95 ~~regulating office-based, medication-assisted treatment; and~~

96 ~~(2)~~ (1) Attests to the Office of Health Facility Licensure and Certification on a form  
97 prescribed by the secretary that the person, partnership, association, or corporation requires  
98 counselling and drug screens, has implemented diversion control measures, will provide patient  
99 numbers upon request, and will provide any other information required by the secretary ~~in rule~~  
100 related to patient health and safety; and

101 ~~(3)~~ (2) Is prohibited from establishing an office-based, medication-assisted treatment at  
102 any other location or facility after the submission of an attestation submitted pursuant to §16-5Y-  
103 4(k)(2) of this code. This subdivision includes any person, partnership, association, or corporation  
104 that has an ownership interest in a partnership, association, or corporation or other corporate  
105 entity providing office-based, medication-assisted treatment.

106 (l) A licensed behavioral health center, pursuant to Behavioral Health Center Licensure,  
107 64 CSR 11, providing office-based medication-assisted treatment is exempt from the registration  
108 requirement contained in §16-5Y-4(a) of this code: *Provided, That it:*

109 (1) Attests to the Office of Health Facility Licensure and Certification on a form prescribed  
110 by the secretary that the person, partnership, association, or corporation requires counseling and  
111 drugs screens, has implemented diversion control measures, will provide patient numbers upon  
112 request, and will provide any other information required by the secretary related to patient health  
113 and safety; and

114 (2) Must notify the Office of Health Facility Licensure and Certification prior to establishing  
115 or terminating an office-based medication-assisted treatment program at any other licensed  
116 behavioral health center location after the submission of an attestation submitted pursuant to §16-  
117 5Y-4(l)(1) of this code.

NOTE: The purpose of this bill is to provide that providers serving no more than 30 patients do not need to comply with the legislative rule and only attest to services being provided. Also, this bill provides that licensed behavioral health centers providing office-based medication-assisted treatment are exempt from the separate registration process for office-based medication-assisted treatment programs, but rather must provide attestation so that a comprehensive list of providers offering office-based medication-assisted treatment may be maintained.

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