

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**ENGROSSED**

**Committee Substitute**

**for**

**House Bill 2498**

By Delegates Kimble, Phillips, Horst, Kirby, C. Pritt

and Fast

[Originating in the Committee on Health and Human

Resources; Reported on February 14, 2023]



1 A BILL to amend and reenact §16-5Y-6 of the Code of West Virginia, 1931, as amended, relating  
2 to requiring written policies of medication-assisted treatment programs; requiring public  
3 notice; and requiring specific written policies.

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

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

**§16-5Y-6. Restrictions; variances and waivers.**

1 (a) A medication-assisted treatment program shall not be located, operated, managed, or  
2 owned at the same location where a chronic pain management clinic licensed and defined in §16-  
3 5H-1 *et seq.* of this code is located.

4 (b) Medication-assisted treatment programs shall not have procedures for offering a  
5 bounty, monetary, equipment, or merchandise reward, or free services for individuals in exchange  
6 for recruitment of new patients into the facility.

7 (c) Medication-assisted treatment programs shall not be located within one-half mile of a  
8 public or private licensed day care center, or public or private K-12 school.

9 Existing medication-assisted treatment programs, including both opioid treatment  
10 programs and office-based medication-assisted treatment programs that are located within one-  
11 half mile of a public or private licensed day care center or public or private K-12 school, shall be  
12 granted a variance, provided that the facility demonstrates adequate patient population controls  
13 and that it may otherwise meet the requirements of this article and the rules promulgated pursuant  
14 to this article.

15 (d) At least 60 days prior to location or re-location, a medication-assisted treatment  
16 program shall publish a Class 1 legal advertisement notifying the residents of the county of its  
17 desired location of its intent to begin its operation within. Notice shall also be communicated to the  
18 desired location's county commissioners and to the mayor of every municipality within the county  
19 by certified mail at least 60 days prior to the program's location or re-location.

20 (1) In its correspondence to the county commissioners and mayors, a medication-assisted  
21 treatment program shall describe its reasons for selecting the location, and shall detail its policies  
22 for ensuring that its activities will not disrupt any public or private function of the county or of any  
23 municipality therein contained;

24 (2) Not later than 30 days following receipt of notification, the county commission and the  
25 municipality wherein the treatment facility is intended to be located shall convene to discuss  
26 whether such location should be permitted. A medication-assisted treatment program may not be  
27 allowed locate or relocate to a new location without the express approval of the county  
28 commission and the municipality wherein it will be located.

29 ~~(d)~~(e) The secretary may grant a waiver or a variance from any licensure or registration  
30 standard, or portion thereof, for the period during which the license or registration is in effect.

31 (1) Requests for waivers or variances of licensure or registration standards shall be in  
32 writing to the secretary and shall include:

33 (A) The specific section of this article or rules promulgated pursuant to this article for which  
34 a waiver or variance is sought;

35 (B) The rationale for requesting the waiver or variance;

36 (C) Documentation by the medication-assisted treatment program's medical director to the  
37 secretary that describes how the program will maintain the quality of services and patient safety if  
38 the wavier or variance is granted; and

39 (D) The consequences of not receiving approval of the requested wavier or variance.

40 (2) The secretary shall issue a written statement to the medication-assisted treatment  
41 program granting or denying a request for a waiver or variance of program licensure or registration  
42 standards.

43 (3) The medication-assisted treatment program shall maintain a file copy of all requests for  
44 waivers or variances and the approval or denial of the requests for the period during which the  
45 license or registration is in effect.

46           (4) The Office of Health Facility Licensure and Certification shall inspect each medication-  
47 assisted treatment program prior to a waiver or variance being granted, including a review of  
48 patient records, to ensure and verify that any waiver or variance request meets the spirit and  
49 purpose of this article and the rules promulgated pursuant to this article. The Office of Health  
50 Facility Licensure and Certification may verify, by unannounced inspection, that the medication-  
51 assisted treatment program is in compliance with any waiver or variance granted by the secretary  
52 for the duration of ~~such~~ the waiver or variance.

NOTE: The purpose of this bill is to require medication-assisted treatment programs to have written policies concerning community relations.

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