

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

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) Medication-assisted treatment programs shall have written policies to measure and
16 minimize the negative impact an existing or new program may have on a community, promote
17 peaceful coexistence, and plan for change and program growth. Medication-assisted treatment
18 programs shall cause to be published a Class I legal advertisement providing public notice of its
19 intent to locate or relocate at a particular location. The written policies shall address:

20 (1) Community needs and impact when selecting a site;

21 (2) Community input on the potential impact a program may have on a neighborhood;

22 (3) Maintenance of a clean and orderly facility that does not impede pedestrian or traffic
23 flow; and,

24 (4) Identification and maintenance of communication with community leader for the
25 purpose of fostering good community relations.

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

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

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

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

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

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

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

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

43 (4) The Office of Health Facility Licensure and Certification shall inspect each medication-
44 assisted treatment program prior to a waiver or variance being granted, including a review of
45 patient records, to ensure and verify that any waiver or variance request meets the spirit and
46 purpose of this article and the rules promulgated pursuant to this article. The Office of Health

- 47 Facility Licensure and Certification may verify, by unannounced inspection, that the medication-
48 assisted treatment program is in compliance with any waiver or variance granted by the secretary
49 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.