

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Originating**

### **House Bill 2531**

BY DELEGATES ROHRBACH, HOLLEN, ELLINGTON, HANNA, HORNBUCKLE,

KELLY D., KESSINGER, MANDT, ROBINSON, AND WALKER

[Enter References]

A BILL to amend and reenact §16-5Y-5 of the Code of West Virginia, 1931, as amended, relating to permitting certain trained professional to provide counseling in a medication-assisted treatment program.

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

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

### **§16-5Y-5. Operational requirements.**

(a) The medication-assisted treatment program shall be licensed and registered in this state with the secretary, the Secretary of State, the state Tax Department, and all other applicable business or licensing entities.

(b) The program sponsor need not be a licensed physician but shall employ a licensed physician for the position of medical director, when required by the rules promulgated pursuant to this article.

(c) Each medication-assisted treatment program shall designate a medical director. If the medication-assisted treatment program is accredited by a Substance Abuse and Mental Health Services Administration approved accrediting body that meets nationally accepted standards for providing medication-assisted treatment, including the Commission on Accreditation of Rehabilitation Facilities or the Joint Commission on Accreditation of Healthcare Organizations, then the program may designate a medical director to oversee all facilities associated with the accredited medication-assisted treatment program. The medical director shall be responsible for the operation of the medication-assisted treatment program, as further specified in the rules promulgated pursuant to this article. He or she may delegate the day-to-day operation of a medication-assisted treatment program as provided in rules promulgated pursuant to this article. Within 10 days after termination of a medical director, the medication-assisted treatment program shall notify the director of the identity of another medical director for that program. Failure to have a medical director practicing at the program may be the basis for a suspension or revocation of the program license. The medical director shall:

(1) Have a full, active, and unencumbered license to practice allopathic medicine or surgery from the West Virginia Board of Medicine or to practice osteopathic medicine or surgery from the West Virginia Board of Osteopathic Medicine in this state and be in good standing and not under any probationary restrictions;

(2) Meet both of the following training requirements:

(A) If the physician prescribes a partial opioid agonist, he or she shall complete the requirements

for the Drug Addiction Treatment Act of 2000; and

(B) Complete other programs and continuing education requirements as further described in the rules promulgated pursuant to this article;

(3) Practice at the licensed or registered medication-assisted treatment program a sufficient number of hours, based upon the type of medication-assisted treatment license or registration issued pursuant to this article, to ensure regulatory compliance, and carry out those duties specifically assigned to the medical director as further described in the rules promulgated pursuant to this article;

(4) Be responsible for monitoring and ensuring compliance with all requirements related to the licensing and operation of the medication-assisted treatment program;

(5) Supervise, control, and direct the activities of each individual working or operating at the medication-assisted treatment program, including any employee, volunteer, or individual under contract, who provides medication-assisted treatment at the program or is associated with the provision of that treatment. The supervision, control, and direction shall be provided in accordance with rules promulgated by the secretary; and

(6) Complete other requirements prescribed by the secretary by rule.

(d) Each medication-assisted treatment program shall designate counseling staff, either employees, or those used on a referral-basis by the program, which meet the requirements of this article and the rules promulgated pursuant to this article. The individual members of the counseling staff shall have one or more of the following qualifications:

(1) Be a licensed psychiatrist;

(2) Certification as an alcohol and drug counselor;

(3) Certification as an advanced alcohol and drug counselor;

(4) Be a counselor, psychologist, marriage and family therapist, or social worker with a master's level education with a specialty or specific training in treatment for substance use disorders, as further described in the rules promulgated pursuant to this article;

(5) Under the direct supervision of an advanced alcohol and drug counselor, be a counselor with a bachelor's degree in social work or another relevant human services field: Provided, That the individual practicing with a bachelor's degree under supervision applies for certification as an alcohol and drug counselor within three years of the date of employment as a counselor; ~~or~~

(6) Be a counselor with a graduate degree actively working toward licensure or certification in the individual's chosen field under supervision of a licensed or certified professional in that field and/or

advanced alcohol and drug counselor; or

(7) Be a psych-mental health nurse practitioner or psych-mental health certified nurse specialist and licensed registered nurse has obtained certification in alcohol and drug treatment.

(e) The medication-assisted treatment program shall be eligible for, and not prohibited from, enrollment with West Virginia Medicaid and other private insurance. Prior to directly billing a patient for any medication-assisted treatment, a medication-assisted treatment program must receive either a rejection of prior authorization, rejection of a submitted claim, or a written denial from a patient's insurer or West Virginia Medicaid denying coverage for such treatment: Provided, That the secretary may grant a variance from this requirement pursuant to §15-5Y-6 of this code. The program shall also document whether a patient has no insurance. At the option of the medication-assisted treatment program, treatment may commence prior to billing.

NOTE: The purpose of this bill is to permit trained nurses to provide mental health services in a medication-assisted treatment program.

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