WEST VIRGINIA CODE: §16b-13-6

§16B-13-6. Restrictions; variances and waivers.

(a) A medication-assisted treatment program shall not be located, operated, managed or owned at the same location where a chronic pain management clinic licensed and defined in §16B-7-1 *et seq*. of this code is located.

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

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

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

(d) The director, in consultation with the Inspector General, may grant a waiver or a variance from any licensure or registration standard, or portion thereof, for the period during which the license or registration is in effect.

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

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

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

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

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

(2) The director, in consultation with the Inspector General, shall issue a written statement to the medication-assisted treatment program granting or denying a request for a waiver or variance of program licensure or registration standards.

(3) The medication-assisted treatment program shall maintain a file copy of all requests for

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waivers or variances and the approval or denial of the requests for the period during which the license or registration is in effect.

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

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