

SB 188

# WEST VIRGINIA LEGISLATURE

## 2017 REGULAR SESSION

### ENROLLED

## Senate Bill 188

BY SENATOR TAKUBO

[Passed March 8, 2017; in effect 90 days from passage]

FILED  
2017 MAR 13 P 4: 43  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**ENROLLED**

**Senate Bill 188**

BY SENATOR TAKUBO

[Passed March 8, 2017; in effect 90 days from passage]

1 AN ACT to amend and reenact §16-5Y-2 of the Code of West Virginia, 1931, as amended, relating  
2 to clarifying the definition of “telehealth” for purposes of medication-assisted treatment  
3 programs.

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

1 That §16-5Y-2 of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted to read as follows:

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

**§16-5Y-2. Definitions.**

1 (a) “Addiction” means a primary, chronic disease of brain reward, motivation, memory and  
2 related circuitry. Dysfunction in these circuits leads to characteristic biological, psychological,  
3 social and spiritual manifestations, which is reflected in an individual pathologically pursuing  
4 reward or relief by substance use, or both, and other behaviors. Addiction is characterized by  
5 inability to consistently abstain; impairment in behavioral control; craving; diminished recognition  
6 of significant problems with one’s behaviors; interpersonal problems with one’s behaviors and  
7 interpersonal relationships; a dysfunctional emotional response; and as addiction is currently  
8 defined by the American Society of Addiction Medicine.

9 (b) “Administrator” means an individual designated by the governing body to be  
10 responsible for the day-to-day operation of the opioid treatment programs.

11 (c) “Advanced alcohol and drug abuse counselor” means an alcohol and drug abuse  
12 counselor who is certified by the West Virginia Certification Board for Addiction and Prevention  
13 Professionals who demonstrates a high degree of competence in the addiction counseling field.

14 (d) “Alcohol and drug abuse counselor” means a counselor certified by the West Virginia  
15 Certification Board for Addiction and Prevention Professionals for specialized work with patients  
16 who have substance use problems.

17 (e) “Biopsychosocial” means of, relating to or concerned with, biological, psychological  
18 and social aspects in contrast to the strictly biomedical aspects of disease.

19 (f) "Center for Substance Abuse Treatment" means the center under the Substance Abuse  
20 and Mental Health Services Administration that promotes community-based substance abuse  
21 treatment and recovery services for individuals and families in the community and provides  
22 national leadership to improve access, reduce barriers and promote high quality, effective  
23 treatment and recovery services.

24 (g) "Controlled Substances Monitoring Program database" means the database  
25 maintained by the West Virginia Board of Pharmacy pursuant to section three, article nine, chapter  
26 sixty-a of this code that monitors and tracks certain prescriptions written or dispensed by  
27 dispensers and prescribers in West Virginia.

28 (h) "Director" means the Director of the Office of Health Facility Licensure and Certification.

29 (i) "Dispense" means the preparation and delivery of a medication-assisted treatment  
30 medication in an appropriately labeled and suitable container to a patient by a medication-assisted  
31 treatment program or pharmacist.

32 (j) "Governing body" means the person or persons identified as being legally responsible  
33 for the operation of the opioid treatment program. A governing body may be a board, a single  
34 entity or owner, or a partnership. The governing body must comply with the requirements  
35 prescribed in rules promulgated pursuant to this article.

36 (k) "Medical director" means a physician licensed within the State of West Virginia who  
37 assumes responsibility for administering all medical services performed by the medication-  
38 assisted treatment program, either by performing them directly or by delegating specific  
39 responsibility to authorized program physicians and health care professionals functioning under  
40 the medical director's direct supervision and functioning within their scope of practice.

41 (l) "Medication-assisted treatment" means the use of medications and drug screens, in  
42 combination with counseling and behavioral therapies, to provide a holistic approach to the  
43 treatment of substance use disorders.

44 (m) "Medication-assisted treatment program" means all publicly and privately owned  
45 opioid treatment programs and office based medication-assisted treatment programs, which  
46 prescribe medication-assisted treatment medications and treat substance use disorders, as those  
47 terms are defined in this article.

48 (n) "Medication-assisted treatment medication" means any medication that is approved by  
49 the United States Food and Drug Administration under Section 505 of the Federal Food, Drug  
50 and Cosmetic Act, 21 U. S. C. § 355, for use in the treatment of substance use disorders that is  
51 an opioid agonist and is listed on the schedule of controlled substances in article two, chapter  
52 sixty-a of this code.

53 (o) "Office based medication-assisted treatment" means all publicly or privately owned  
54 medication-assisted treatment programs in clinics, facilities, offices or programs that treat  
55 individuals with substance use disorders through the prescription, administration or dispensing of  
56 a medication-assisted treatment medication in the form of a partial opioid agonist or other  
57 medication-assisted medication approved for use in office-based, medication-assisted treatment  
58 setting.

59 (p) "Opioid agonist" means substances that bind to and activate the opiate receptors  
60 resulting in analgesia and pain regulation, respiratory depression and a wide variety of behavioral  
61 changes. As used in this article, the term "opioid agonist" does not include partial agonist  
62 medications used as an alternative to opioid agonists in the treatment of opioid addiction.

63 (q) "Opioid treatment program" means all publicly or privately owned medication-assisted  
64 treatment programs in clinics, facilities, offices or programs that treat individuals with substance  
65 use disorders through on-site administration or dispensing of a medication-assisted treatment  
66 medication in the form of an opioid agonist or partial opioid agonist.

67 (r) "Owner" means any person, partnership, association or corporation listed as the owner  
68 of a medication-assisted treatment program on the licensing or registration forms required by this  
69 article.

70 (s) "Partial opioid agonist" means a Federal Drug Administration approved medication that  
71 is used as an alternative to opioid agonists for the treatment of substance use disorders and that  
72 binds to and activates opiate receptors, but not to the same degree as full agonists.

73 (t) "Physician" means an individual licensed in this state to practice allopathic medicine or  
74 surgery by the West Virginia Board of Medicine or osteopathic medicine or surgery by the West  
75 Virginia Board of Osteopathic Medicine and that meets the requirements of this article.

76 (u) "Prescriber" means a person authorized in this state, working within their scope of  
77 practice, to give direction, either orally or in writing, for the preparation and administration of a  
78 remedy to be used in the treatment of substance use disorders.

79 (v) "Program sponsor" means the person named in the application for the certification and  
80 licensure of an opioid treatment program who is responsible for the administrative operation of  
81 the opioid treatment program and who assumes responsibility for all of its employees, including  
82 any practitioners, agents or other persons providing medical, rehabilitative or counseling services  
83 at the program.

84 (w) "Secretary" means the Secretary of the West Virginia Department of Health and  
85 Human Resources or his or her designee.

86 (x) "State opioid treatment authority" means the agency or individual designated by the  
87 Governor to exercise the responsibility and authority of the state for governing the treatment of  
88 substance use disorders, including, but not limited to, the treatment of opiate addiction with opioid  
89 drugs.

90 (y) "State oversight agency" means the agency or office of state government identified by  
91 the secretary to provide regulatory oversight of medication-assisted treatment programs on behalf  
92 of the State of West Virginia.

93 (z) "Substance" means the following:

94 (1) Alcohol;

95 (2) Controlled substances defined by sections two hundred four, two hundred six, two  
96 hundred eight, and two hundred ten, article two, chapter sixty-a of this code; or

97 (3) Any chemical, gas, drug or medication consumed which causes clinically and  
98 functionally significant impairment, such as health problems, disability and failure to meet major  
99 responsibilities at work, school or home.

100 (aa) "Substance Abuse and Mental Health Services Administration" means the agency  
101 under the United States Department of Health and Human Services responsible for the  
102 accreditation and certification of medication-assisted treatment programs and that provides  
103 leadership, resources, programs, policies, information, data, contracts and grants for the purpose  
104 of reducing the impact of substance abuse and mental or behavioral illness.

105 (bb) "Substance use disorder" means patterns of symptoms resulting from use of a  
106 substance that the individual continues to take, despite experiencing problems as a result; or as  
107 defined in the most recent edition of the American Psychiatric Association's Diagnostic and  
108 Statistical Manual of Mental Disorders.

109 (cc) "Telehealth" means the mode of delivering health care services and public health via  
110 information and communication technologies to facilitate the diagnosis, consultation, treatment  
111 education, care management and self-management of a patient's health care while the patient is  
112 at the originating site and the health care provider is at a distant site.

113 (dd) "Variance" means written permission granted by the secretary to a medication-  
114 assisted treatment program that a requirement of this article or rules promulgated pursuant to this  
115 article may be accomplished in a manner different from the manner set forth in this article or  
116 associated rules.

117 (ee) "Waiver" means a formal, time-limited agreement between the designated oversight  
118 agency and the medication-assisted treatment program that suspends a rule, policy or standard  
119 for a specific situation so long as the health and safety of patients is better served in the situation  
120 by suspension of the rule, policy or standard than by enforcement.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Mark R. Spaworth*  
.....  
Chairman, Senate Committee

*Leslie Fraden*  
.....  
Chairman, House Committee

FILED  
2017 MAR 13 P 4:43  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

Originated in the Senate.

In effect 90 days from passage.

*Clark A. Bunker*  
.....  
Clerk of the Senate

*Steph D. Harrison*  
.....  
Clerk of the House of Delegates

*Will B. Lunsford*  
.....  
President of the Senate

*John D. C. ...*  
.....  
Speaker of the House of Delegates

The within *is approved* this the *13th*  
*March*  
Day of ....., 2017.

*Earl Raymundo*  
.....  
Governor



PRESENTED TO THE GOVERNOR

MAR 10 2017

Time 2:54 pm