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SENATE BILL NO. 329

Offered January 10, 2018

Prefiled January 8, 2018

A BILL to amend and reenact § 37.2-406 of the Code of Virginia, relating to clinics for treatment of opioid addiction; location.

Patrons—Dunnivant, McClellan and Mason

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That § 37.2-406 of the Code of Virginia is amended and reenacted as follows:

§ 37.2-406. Conditions for initial licensure of certain providers.

A. Notwithstanding the Commissioner's discretion to grant licenses pursuant to this article or any Board regulation regarding licensing, no initial license shall be granted by the Commissioner to a provider of treatment for persons with opiate addiction through the use of (i) methadone or (ii) opioid replacements other than opioid replacements approved for the treatment of opioid addiction by the U.S. Food and Drug Administration if the provider is to be located within one-half mile of a public or private licensed day care center or a public or private K-12 school, except when such service is provided by a hospital licensed by the Board of Health or the Commissioner or is owned or operated by an agency of the Commonwealth.

B. No provider shall be required to conduct, maintain, or operate services for the treatment of persons with opiate addiction through the use of (i) methadone or (ii) opioid replacements other than opioid replacements approved for the treatment of opioid addiction by the U.S. Food and Drug Administration on Sunday, except when such service is provided by a hospital licensed by the Board of Health or the Commissioner or is owned or operated by an agency of the Commonwealth, subject to regulations or guidelines issued by the Department consistent with the health, safety and welfare of individuals receiving services and the security of take-home doses of (i) methadone or (ii) opioid replacements other than opioid replacements approved for the treatment of opioid addiction by the U.S. Food and Drug Administration.

C. Upon receiving notice of a proposal for or an application to obtain an initial license from a provider of treatment for persons with opiate addiction through the use of (i) methadone or (ii) opioid replacements other than opioid replacements approved for the treatment of opioid addiction by the U.S. Food and Drug Administration, the Commissioner shall, within 15 days of the receipt, notify the local governing body of and the community services board serving the jurisdiction in which the facility is to be located of the proposal or application and the facility's proposed location.

Within 30 days of the date of the notice, the local governing body and community services board shall submit to the Commissioner comments on the proposal or application. The local governing body shall notify the Commissioner within 30 days of the date of the notice concerning the compliance of the applicant with this section and any applicable local ordinances.

D. No license shall be issued by the Commissioner to the provider until the conditions of this section have been met, i.e., local governing body and community services board comments have been received and the local governing body has determined compliance with the provisions of this section and any relevant local ordinances.

E. No applicant for a license to provide treatment for persons with opiate addiction through the use of (i) methadone or (ii) opioid replacements other than opioid replacements approved for the treatment of opioid addiction by the U.S. Food and Drug Administration that has obtained a certificate of occupancy in accordance with the law and regulations in effect on January 1, 2004, shall be required to comply with the provisions of this section with respect to the existing facility for which the certificate of occupancy was obtained. No existing licensed provider shall be required to comply with the provisions of this section with respect to an existing facility in which it is currently providing such treatment. License applicants and licensees who fall within this exception shall, however, be required to comply with the provisions of this section for purposes of relocating an existing facility or establishing a new facility.

F. The provisions of subsections A and E shall not apply to (i) the jurisdictions in Planning District 8 or 20, (ii) an applicant for a license for the purpose of relocating within a city located in Planning District 23 a facility to provide treatment for persons with opiate addiction through the use of methadone or other opioid replacements that has been providing such treatment in the same city since 1984 and is operated by and located with a community services board, or (iii) an applicant for a license

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59 *to operate in its current location or to relocate an existing facility to provide treatment for persons with*
60 *opiate addiction through the use of methadone or other opioid replacements when the facility is located*
61 *within one-half mile of a public or private licensed day care center or a public or private K-12 school*
62 *in the City of Richmond, has been licensed and operated as a facility to provide treatment for persons*
63 *with opiate addiction through the use of methadone or other opioid replacements by another provider*
64 *immediately prior to submission of the application for a license, and, upon issuance of the license, will*
65 *be operated by a behavioral health authority.*