

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 1244 (Delegate Oaks, *et al.*)
Health and Government Operations

Public Health - Drug Abuse Treatment Programs - Zoning

A drug abuse treatment program that administers pharmacological intervention including methadone and LAAM treatments may locate in the same zoning area as an office for one or more health care practitioners that provide outpatient treatment. A treatment program may not be subject to any special exception, conditional use permit, or procedure that differs from that required for a health care practitioner office. The bill's zoning provisions supercede any general zoning ordinances, rules, or regulations of a political subdivision that conflict with these provisions.

Fiscal Summary

State Effect: The bill would not substantively change State activities or operations.

Local Effect: The bill is not expected to significantly affect local government finances.

Small Business Effect: Potential meaningful. Small business drug abuse treatment programs could locate in communities with higher needs as long as they conform to the bill's zoning requirements.

Analysis

Current Law: In general, county and local jurisdictions implement zoning ordinances. In certain circumstances, such as providing for public utilities, State law may preempt local zoning requirements. State law does not regulate where drug treatment programs may be located. A drug abuse treatment program is any individual or organization that provides treatment, care, or rehabilitation for individuals who show the effects of drug

abuse, and represents or advertises itself as a drug abuse treatment program. This includes a program or facility owned or operated by the State or any of its political subdivisions. It does not include drug abuse programs run by hospitals, or support groups such as Narcotics Anonymous.

In 2002, the Baltimore County Council adopted Bill No. 39-02, which prohibits a State-licensed medical clinic from locating within 750 feet of any residentially-zoned property line. The council's bill defines a State-licensed medical clinic as: (1) a freestanding ambulatory care facility licensed by the State; (2) a detoxification facility certified by the State; or (3) an alcohol abuse and drug abuse treatment program certified by the State.

The U.S. District Court of Maryland enjoined the county from enforcing the zoning ordinance in an August 30, 2002 decision against Smith-Berch, a treatment program, citing a July 2000 ruling that Baltimore County's denial of a zoning permit for a methadone treatment program violated the federal Americans with Disabilities Act and the due process clause of the Fourth Amendment. . There is pending litigation by two companies (Start, Inc. and A Helping Hand, LLC) challenging Baltimore County's zoning ordinances.

Background: Methadone is a synthetic narcotic used to treat people addicted to heroin, morphine, and other opiates. Methadone, taken once daily, suppresses narcotic withdrawal.

There are approximately 45 methadone clinics in Maryland: 20 in Baltimore City; 4 each in Anne Arundel, Montgomery, and Prince George's counties; 3 in Baltimore County; 2 each in Harford and Howard Counties; and 1 each in Carroll, Cecil, Charles, Frederick, Washington, and Wicomico counties. About 6,400 people entered methadone maintenance treatment in fiscal 2002 and 5,100 were discharged from these programs.

In fiscal 2002, 428 persons were admitted to methadone detoxification treatment (treatment with the objective of reducing the toxins in the patient's body). In that same year, 387 individuals were discharged from this type of treatment.

Orlaam, also known as LAAM, is the second synthetic narcotic medication approved to treat heroin and other opioid addictions through outpatient narcotic maintenance treatment programs. It is administered three times a week.

A new prescription medication, buprenorphine, can also be used to treat addiction to prescription painkillers and heroin. Unlike other medications available to treat addiction, buprenorphine can be prescribed by physicians in their own offices. This new medication will not replace methadone therapy provided through methadone treatment facilities, but

will provide physicians the opportunity to treat patients in their offices. The federal Drug Abuse Treatment Act of 2000 permits qualified physicians to provide this medication in an office setting. In order to prescribe buprenorphine, physicians must obtain a waiver from provisions of the federal Controlled Substances Act and complete the minimum eight hours of training mandated by Congress. About 22 Maryland physicians have obtained the appropriate waiver.

Additional Information

Prior Introductions: None.

Cross File: SB 474 (Senator Britt, *et al.*) – Education, Health, and Environmental Affairs.

Information Source(s): Washington County, Montgomery County, Kent County, Worcester County, Department of Health and Mental Hygiene, Department of Legislative Services

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