

VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

CHAPTER 845

An Act to amend the Code of Virginia by adding a section numbered 37.1-179.2, relating to licensure conditions for certain methadone clinics designed for the treatment of persons with opiate addiction.

[H 745]

Approved April 14, 2004

Whereas, teenage drug and alcohol use is one of the most pervasive problems facing the Commonwealth and our nation; and

Whereas, across the nation and in Virginia, parents, school authorities, community leaders, law-enforcement officials, and legislators continue to struggle with ways to reduce teenage drug and alcohol use; and

Whereas, Justice Scalia, when addressing the governmental concerns for "detering drug use by our Nation's school children" in Vernonia School District v. Acton, spoke to its importance in strong terms, noting "[t]hat the nature of the concern is important—indeed, perhaps compelling—can hardly be doubted"; and

Whereas, thus, the Supreme Court of the United States has validated society's strong interest in ensuring that impressionable young people, especially in the school context, are protected from the temptations of drugs and are provided positive, rather than negative, role models; now, therefore

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 37.1-179.2 as follows:

§ 37.1-179.2. Conditions for initial licensure of certain providers.

A. Notwithstanding the Commissioner's discretion to grant licenses pursuant to this chapter 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 the controlled substance, methadone, or other opioid replacements, if such 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 of the Department of Mental Health, Mental Retardation or Substance Abuse Services or owned or operated by an agency of the Commonwealth.

B. Further, upon receiving notice of a proposal for or an application to obtain initial licensure from a provider of treatment for persons with opiate addiction through the use of the controlled substance, methadone, or other opioid replacements, the Commissioner shall, within 15 days of such receipt, notify the local governing body of and the community services board serving the jurisdiction in which the facility is to be located of such proposal or application and its proposed location.

Within 30 days of the date of the notice, local governing bodies and community services boards shall submit to the Commissioner comments on such proposals or applications. 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.

C. No license shall be issued by the Commissioner to such 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.

D. No applicant for a license to provide treatment for persons with opiate addiction through the use of the controlled substance, methadone, or other opioid replacements 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. No existing licensed provider shall be required to comply with the provisions of this section in any city or county in which it is currently providing such treatment.

E. The provisions of subsection A of this section shall not apply to the jurisdictions located in Planning District 8.

2. That notwithstanding any regulations to the contrary and upon enactment of this provision, the Commissioner shall not grant or issue any initial license to a provider of treatment for persons with opiate addiction through the use of the controlled substance, methadone, or other opioid replacements on or after the date of enactment of this provision, unless the provider is in compliance with this act.