



CITY OF RICHMOND

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW
BOARD OF ZONING APPEALS

February 7, 2020

Metro Treatment of Virginia, L.P.
2217 E. Franklin Street
Richmond, VA 23223

John S. Buford, Esq.
Hancock, Daniel & Johnson, P.C.
4701 Cox Road, #400
Glen Allen, Virginia 23060

To Whom It May Concern:

RE: **BZA 08-2020**

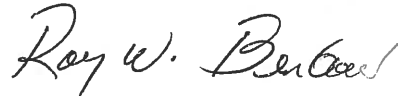
You are hereby notified that the Board of Zoning Appeals will hold a public hearing on Wednesday, March 4, 2020 at 1:00 p.m. in the 5th floor conference room, City Hall, 900 East Broad Street, to consider an appeal by Metro Treatment of Virginia, L.P., a subsidiary of Colonial Management, L.P., (collectively, "CMG") that a decision of the Zoning Administrator dated November 7, 2019 in which the Zoning Administrator determined that CMG's proposed use as a methadone treatment clinic for the property located at 449-A Belt Boulevard was not permitted within the M-1 District because it did not qualify as a "medical or dental office or clinic". The specific section numbers of the Zoning Ordinance being appealed are §30-452.1 (Section 30-452.1 incorporates by reference all permitted uses listed in §30-438.1) and §30-1220.21.

Please be advised that in the case of an appeal of the decision of the Zoning Administrator, the Zoning Administrator and the Appellant or Appellant's representative shall be permitted a total of ten (10) minutes to present their case in chief and their rebuttal. The Zoning Administrator and the Appellant or Appellant's representative shall be required prior to beginning their presentation to declare to the Board how many of their allotted minutes shall be devoted to their case in chief and their rebuttal. Following the presentations of the Zoning Administrator and the Appellant or Appellant's representative, other interested parties shall be permitted a total of ten (10) minutes to present their views. Interested parties are defined as a property owner other than the Appellant whose property is the subject of an appeal and the neighborhood constituency consisting of neighbors and neighborhood association(s).

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February 7, 2020

If you have any questions regarding the Board's procedures or any issue involving presentation of your case, please feel free to contact me.

Very truly yours,

A handwritten signature in cursive script that reads "Roy W. Benbow".

Roy W. Benbow, Secretary
Phone: (804) 240-2124
Fax: (804) 646-5789
E-mail: Roy.Benbow@richmondgov.com

cc: Zoning Administrator

Notice of this meeting is being sent to the persons whom the Board of Zoning Appeals believes to be property owners in the immediate vicinity of the property concerned in this application. This notice is for their information only, and there is no need for them to appear unless they so desire. The Board will, however, welcome such views as any persons care to express during the hearing on this application.

| | | |
|--|--|--|
| 7th Peyton 3706 LLC 6320 Boundary Run Dr Mechanicsville VA 23111 | Arbor 3 LLC 5601 Hull Street Rd Richmond VA 23224 | Baldauf David H Tr C/o Rite Aid Corp #795 P O Box 8431 Harrisburg PA 17105 |
| Blackwell Charles Jr & Karen E Brown & Marcia Trimiew 909 Elaine Ave Richmond VA 23235 | Bronlon Group LLC 4292 Gifford Pinchet Dr Annandale VA 22003 | Brown Millie L And Charles & Eric Green 202 Larne Ave Richmond VA 23224 |
| Butler Robert S Jr & Daniel B C/o Butler Realty 2025 E Main St Suite 110 Richmond VA 23223 | C S X Transportation Inc Tax Department J910 500 Water St Jacksonville FL 32202 | Chang Eun A 11850 Aberdeen Landing Ln Midlothian VA 23113 |
| City Of Richmond Public Works 900 E Broad St Rm 701 Richmond VA 23219 | Denton Real Properties LLC 1425 Andean Lane Powhatan VA 23139 | Dixon George W & Pearl F 3708 Peyton Ave Richmond VA 23224 |
| Eagledale Realty LLC 10689 N Pennsylvania St #100 Indianapolis IN 46280 | Elliott Jamie 212 Larne Ave Richmond VA 23224 | Four Sac Self Storage Corp 207 E Clarendon Ave Phoenix AZ 85012 |
| Gillispie Robert S And Jacqueline M 13544 Providence Run Rd Ashland VA 23005 | Green William A Sr 6900 Able Rd Chesterfield VA 23832 | Harvell Gary A 3704 Peyton Ave Richmond VA 23224 |
| Jackson Sandra M P O Box 9852 Richmond VA 23228 | Jma Realty Holdings LLC 10226 Doncastle Ct Mechanicsville VA 23116 | King Olivia A 204 Larne Ave Richmond VA 23224 |
| Mahasees Group Llc C/o Tyler Colbert 409 E Main Street Ste 301 Richmond VA 23219 | Mayo C D, Wynn J B, Swinson R B, Bloomfield J B Jr & C E Sr 214 Larne Ave Richmond VA 23224 | Moore Pearl F 3708 Peyton Ave Richmond VA 23224 |
| National Retail Properties Lp C/o Kfc 8900 Indian Creek Pkwy 100 Overland Park KS 66210 | Nimmo William T 9281 Osborne Tpk Richmond VA 23231 | North Town Rentals LLC 13207 Tipple Point Rd Midlothian VA 23114 |
| Paige Robert P Sr & Majorie H 210 Larne Ave Richmond VA 23224 | Pravisha Infotech LLC 10417 Kings Grant Dr Henrico VA 23233 | Robinson Marie C 212 Larne Ave Richmond VA 23224 |

Samover Inc C/o Overton P Pollard
7726 Sweet Briar Rd
Richmond VA 23229

Sartain Properties LLC
2901 Stonewall Ave
Richmond VA 23225

Saul Subsidiary I Limited Partnership
7501 Wisconsin Ave
Bethesda MD 20814

Scruggs Carolyn A
216 Larne Ave
Richmond VA 23224

Star River Investments Corporation
108 West 13th St
Wilmington DE 19801

Taber David E
1915 S Battery Dr
Richmond VA 23222

Timbers Shirleen And Darrell
813 I Street Ne
Washington DC 20002

U Haul Real Estate Company
Po Box 29046
Phoenix AZ 85038

Property: 445 Belt Blvd **Parcel ID:** C0060154038**Parcel**

Street Address: 445 Belt Blvd Richmond, VA 23224-
Alternate Street Addresses: 425 Belt Blvd
: 3818 Hull Street Road
: 429 Belt Blvd
: 435 Belt Blvd
: 437 Belt Blvd
: 449 Belt Blvd
: 433 Belt Blvd
: 441 Belt Blvd
: 431 Belt Blvd
: 3800 Hull Street Road
: 427 Belt Blvd
: 439 Belt Blvd
: 443 Belt Blvd
: 451 Belt Blvd

Owner: EAGLEDALE REALTY LLC
Mailing Address: 10689 N PENNSYLVANIA ST #100, INDIANAPOLIS, IN 46280
Subdivision Name : Circle Shopping Center
Parent Parcel ID:
Assessment Area: 472 - Hull St
Property Class: 421 - B Neighborhood Shopping Center
Zoning District: M-1 - Light Industrial
Exemption Code: -

Current Assessment

Effective Date: 01/01/2020
Land Value: \$1,312,000
Improvement Value: \$4,283,000
Total Value: \$5,595,000
Area Tax: \$0
Special Assessment District: None

Land Description

Parcel Square Feet: 490552
Acreage: 11.2615
Property Description 1: CIRCLE SHOPPING CENTER L4 RESUB
Property Description 2: 0444.59X0166.57 IRG00011.261 AC
State Plane Coords(?): X= 11780746.782143 Y= 3708890.123282
Latitude: 37.50472746 , **Longitude:** -77.47388726

Description

Land Type: Primary Commercial/Indust Land
Topology:
Front Size: 444
Rear Size: 166
Parcel Square Feet: 490552
Acreage: 11.2615
Property Description 1: CIRCLE SHOPPING CENTER L4 RESUB
Property Description 2: 0444.59X0166.57 IRG00011.261 AC
Subdivision Name : Circle Shopping Center
State Plane Coords(?): X= 11780746.782143 Y= 3708890.123282
Latitude: 37.50472746 , **Longitude:** -77.47388726

Other

Street improvement:
Sidewalk:

Assessments

| Assessment Year | Land Value | Improvement Value | Total Value | Reason |
|-----------------|-------------|-------------------|-------------|---------------|
| 2020 | \$1,312,000 | \$4,283,000 | \$5,595,000 | Reassessment |
| 2019 | \$1,312,000 | \$4,283,000 | \$5,595,000 | Reassessment |
| 2018 | \$1,266,000 | \$4,270,000 | \$5,536,000 | Reassessment |
| 2017 | \$1,512,000 | \$4,938,000 | \$6,450,000 | Reassessment |
| 2016 | \$1,512,000 | \$4,938,000 | \$6,450,000 | Reassessment |
| 2015 | \$1,509,000 | \$4,941,000 | \$6,450,000 | Reassessment |
| 2014 | \$1,509,000 | \$4,941,000 | \$6,450,000 | BOR |
| 2013 | \$1,509,000 | \$5,754,000 | \$7,263,000 | BOR |
| 2012 | \$1,509,000 | \$5,911,000 | \$7,420,000 | OfficeReview |
| 2011 | \$1,509,000 | \$7,534,000 | \$9,043,000 | Assessment |
| 2010 | \$1,509,000 | \$6,734,000 | \$8,243,000 | Reassessment |
| 2009 | \$1,509,100 | \$5,060,700 | \$6,569,800 | Reassessment |
| 2008 | \$1,151,000 | \$3,075,000 | \$4,226,000 | Reassessment |
| 2007 | \$1,150,600 | \$2,912,600 | \$4,063,200 | Reassessment |
| 2006 | \$958,800 | \$2,164,600 | \$3,123,400 | Reassessment |
| 2005 | \$940,000 | \$2,061,500 | \$3,001,500 | Reassessment |
| 2004 | \$854,400 | \$2,048,600 | \$2,903,000 | Reassessment |
| 2003 | \$799,900 | \$1,030,700 | \$1,830,600 | Reassessment |
| 2002 | \$727,200 | \$937,000 | \$1,664,200 | Reassessment |
| 2001 | \$686,000 | \$884,000 | \$1,570,000 | Correction |
| 1998 | \$686,000 | \$835,000 | \$1,521,000 | Not Available |

Transfers

| Transfer Date | Consideration Amount | Grantor Name | Deed Reference | Verified Market Sale Description |
|---------------|----------------------|------------------------------|----------------|--|
| 12/06/2016 | \$0 | CIRCLE REALTY LLC | ID2016-23763 | 2 - INVALID SALE-Relation Between Buyer/Seller |
| 05/16/1997 | \$0 | Not Available | 09700-10529 | |
| 07/12/1996 | \$0 | UNITED DOMINION REALTY TRUST | 009600-14337 | |
| 02/27/1985 | \$0 | Not Available | 000032-00662 | |

Planning

Master Plan Future Land Use: MU
Zoning District: M-1 - Light Industrial
Planning District: Midlothian
Traffic Zone: 1179
City Neighborhood Code: BCTR
City Neighborhood Name: Belt Center
Civic Code:
Civic Association Name:
Subdivision Name: Circle Shopping Center
City Old and Historic District:
National historic District:
Neighborhoods in Bloom:
Redevelopment Conservation Area:

Economic Development

Care Area: - Belt Boulevard
Enterprise Zone: III

Environment

100 YEAR Flood Plain Flag: Contact the Water Resources Division at 646-7586.
500 YEAR Flood Plain Flag: N
Resource Protection Flag: Contact the Water Resources Division at 646-7586.
Wetland Flag: N

Census

| Census Year | Block | Block Group | Tract |
|-------------|-------|-------------|--------|
| 2000 | 1001 | 0706001 | 070600 |
| 1990 | 119 | 0706001 | 070600 |

Schools

Elementary School: Elizabeth D Redd
Middle School: Thompson
High School: Wythe

Public Safety

Police Precinct: 2
Police Sector: 211
Fire District: 20
Dispatch Zone: 174C

Public Works Schedules

Street Sweep: TBD
Leaf Collection: TBD
Refuse Collection: Tuesday
Bulk Collection: TBD

Government Districts

Council District: 8
Voter Precinct: 810
State House District: 69
State Senate District: 16
Congressional District: 4

Extension 1 Details

age

Extension Name: C04 - ANTIQUES & ATT IN-LINE STORES**Year Built:** 1960**Stories:** 1**Units:** 0**Number Of Rooms:** 0**Number Of Bed Rooms:** 0**Number Of Full Baths:** 0**Number Of Half Baths:** 0**Condition:** normal for**Foundation Type:****1st Predominant Exterior:****2nd Predominant Exterior:** N/A**Roof Style:** 1**Roof Material:****Interior Wall:****Floor Finish:****Heating Type:** 0 sf**Central Air:** N**Basement Garage Car #:** 0**Fireplace:** N**Building Description (Out Building and
Yard Items) :** Commercial Canopy - Good, Paving**Extension 1 Dimensions****Finished Living Area:** 120939 Sqft**Attic:** 0 Sqft**Finished Attic:** 0 Sqft**Basement:** 0 Sqft**Finished Basement:** 0 Sqft**Attached Garage:** 0 Sqft**Detached Garage:** 0 Sqft**Attached Carport:** 0 Sqft**Enclosed Porch:** 0 Sqft**Open Porch:** 0 Sqft**Deck:** 0 Sqft**Extension 2 Details****Extension Name:** C05 - LAUNDROMAT (formerly tireshop)**Year Built:** 1960**Stories:** 1**Units:** 0**Number Of Rooms:** 0**Number Of Bed Rooms:** 0**Number Of Full Baths:** 0**Number Of Half Baths:** 0**Condition:** normal for age**Foundation Type:****1st Predominant Exterior:****2nd Predominant Exterior:** N/A**Roof Style:** 1**Roof Material:****Interior Wall:****Floor Finish:****Heating Type:** 0 sf**Central Air:** N**Basement Garage Car #:** 0**Fireplace:** N**Building Description (Out Building and
Yard Items) :****Extension 3 Dimensions**

Extension 2 Dimensions**Finished Living Area:** 3596 Sqft**Attic:** 0 Sqft**Finished Attic:** 0 Sqft
0 Sqft**Basement:****Finished Basement:** 0 Sqft**Attached Garage:** 0 Sqft**Detached Garage:** 0 Sqft**Attached Carport:** 0 Sqft**Enclosed Porch:** 0 Sqft**Open Porch:** 0 Sqft**Deck:** 0 Sqft**Extension 3 Details****Extension Name:** C06 - 425 - 37 E. Belt Blvd. Shops**Year Built:** 1960**Stories:** 1**Units:** 0**Number Of Rooms:** 0**Number Of Bed Rooms:** 0**Number Of Full Baths:** 0**Number Of Half Baths:** 0**Condition:** normal for age**Foundation Type:****1st Predominant Exterior:****2nd Predominant Exterior:** N/A**Roof Style:** 1**Roof Material:****Interior Wall:****Floor Finish:****Heating Type:** 0 sf**Central Air:** N**Basement Garage Car #:** 0**Fireplace:** N**Building Description (Out Building and
Yard Items) :** Commercial Canopy - Good**Extension 3 Dimensions****Finished Living Area:** 13108 Sqft**Attic:** 0 Sqft**Finished Attic:** 0 Sqft**Basement:** 0 Sqft**Finished Basement:** 0 Sqft**Attached Garage:** 0 Sqft**Detached Garage:** 0 Sqft**Attached Carport:** 0 Sqft**Enclosed Porch:** 0 Sqft**Open Porch:** 0 Sqft**Deck:** 0 Sqft

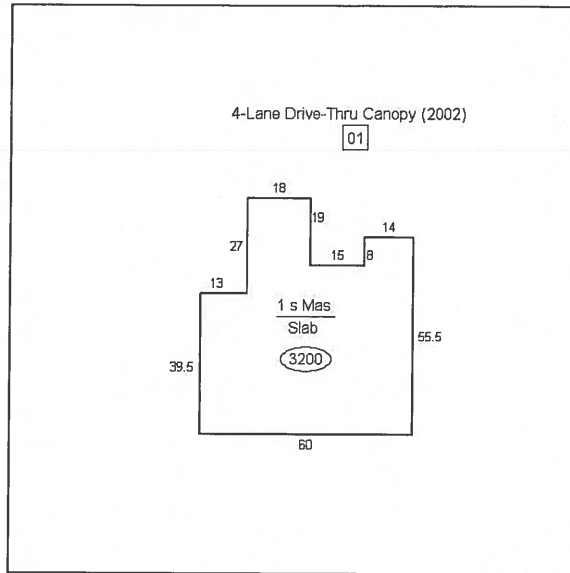
Property Images

Name:C0060154038 Desc:C06

[Click here for Larger Image](#)

Sketch Images

Name:C0060154038 Desc:C03



APPLICATION FORM FOR AN APPEAL TO A DECISION OF THE ZONING ADMINISTRATOR



CITY OF RICHMOND - ZONING ADMINISTRATION OFFICE
ROOM 110, CITY HALL, 900 EAST BROAD STREET
RICHMOND, VIRGINIA 23219
(804) 646-6340

DCDZoningAdministration@Richmondgov.com

TO BE COMPLETED BY APPELLANT
(See the reverse side of this application for completion instructions)

1. APPEALS TO THE BOARD OF ZONING APPEALS MUST BE FILED WITH THE ZONING ADMINISTRATION OFFICE IN THE CITY OF RICHMOND CITY HALL - ROOM 110. SUCH APPEAL SHALL BE FILED NOT MORE THAN 30 DAYS FROM THE DATE OF THE DECISION FOR WHICH REVIEW IS SOUGHT. APPEALS FILED AS HEREIN PROVIDED ARE ALSO DEEMED TO HAVE BEEN PROPERLY FILED WITH THE BOARD OF ZONING APPEALS.

2. APPELLANT: Metro Treatment of Virginia, L.P. PHONE: (home) () (work) ()
(Name/Address) 2217 E. Franklin Street E-mail Address: _____
Richmond, VA 23223 Fax No. () _____

3. APPELLANT'S John S. Buford, Esq. PHONE: (home) () (work) (804) 967-9604
REPRESENTATIVE: Hancock, Daniel & Johnson, P.C. E-mail Address: jbuford@hancockdaniel.com
(Name/Address) 4701 Cox Road, #400 Fax No. (804) 967-9888
Glen Allen, VA 23060

4. LIST THE SPECIFIC SECTION NUMBER(S) OF THE ZONING ORDINANCE WHICH ARE BEING APPEALED:

30-452.1, 30-438.1, 30-1220.21

5. PROPERTY ADDRESS(ES): 449-A Belt Boulevard

6. GROUNDS FOR THE APPEAL (Grounds for the Appeal may be supplemented on additional page(s)):

See attached

I AM APPEALING UNDER SECTION 17.20, PARAGRAPH (a) OF THE CHARTER OF THE CITY OF RICHMOND.

7. SIGNATURE OF APPELLANT: [Signature] DATE: 12/3/2019

TO BE COMPLETED BY THE ZONING ADMINISTRATION OFFICE

APPEAL DEADLINE DATE: 12-9-19 TAX PARCEL NO(s): 00060154038 ZONING DISTRICT: M-1
DATE FILED: December 3, 2019 TIME FILED: 3:08 pm RECEIVED BY: RLS RECEIPT NO. BZA 08-2020
2019

TO BE COMPLETED BY THE SECRETARY OF THE BOARD OF ZONING APPEALS

DATE FILED: 12-3-2019 CASE NUMBER: BZA 08-2020 HEARING DATE: March 4, 2020 AT 1:00 P.M.

AS CERTIFIED BY: [Signature] (ZONING ADMINISTRATOR)

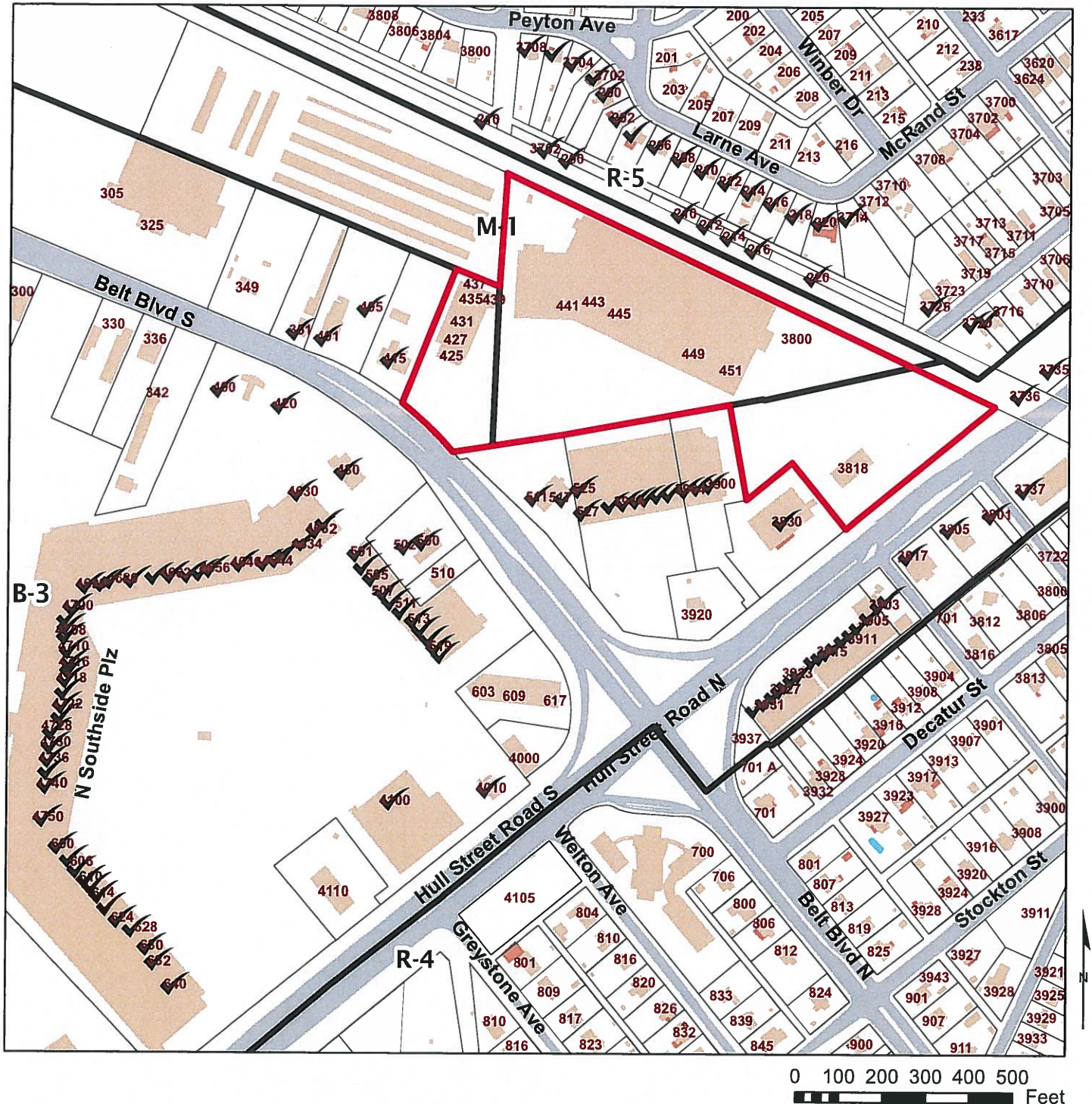
AS CERTIFIED BY: [Signature] (SECRETARY, BOARD OF ZONING APPEALS)

BOARD OF ZONING APPEALS CASE BZA 08-2020
150' Buffer

APPLICANT(S): Metro Treatment of Virginia, L.P.

PREMISES: 449-A Belt Boulevard
(Tax Parcel Number C006-0154/038)

SUBJECT: An appeal by Metro Treatment of Virginia, L.P., a subsidiary of Colonial Management, L.P., (collectively, "CMG") that a decision of the Zoning Administrator dated November 7, 2019 in which the Zoning Administrator determined that CMG's proposed use as a methadone treatment clinic for the property located at 449-A Belt Boulevard was not permitted within the M-1 District because it did not qualify as a "medical or dental office or clinic". The specific section numbers of the Zoning Ordinance being appealed are §30-452.1 (Section 30-452.1 incorporates by reference all permitted uses listed in §30-438.1) and §30-1220.21.



The following zoning districts permit medical and dental offices and clinics:

- **R-73 (MULTI-FAMILY RESIDENTIAL) DISTRICTS**
- **RO-1 (RESIDENTIAL-OFFICE) DISTRICTS**
- **RO-2 (RESIDENTIAL-OFFICE) DISTRICTS**
- **RO-3 (RESIDENTIAL-OFFICE) DISTRICTS**
- **HO (HOTEL-OFFICE) DISTRICTS**
- **UB (URBAN BUSINESS) DISTRICTS**
- **UB-2 (URBAN BUSINESS) DISTRICTS**
- **B-1 (NEIGHBORHOOD BUSINESS) DISTRICTS**
- **B-2 (COMMUNITY BUSINESS) DISTRICTS**
- **B-3 (GENERAL BUSINESS) DISTRICTS**
- **B-4 (CENTRAL BUSINESS) DISTRICTS**
- **B-5 (CENTRAL BUSINESS) DISTRICTS**
- **B-6 (MIXED-USE BUSINESS) DISTRICTS**
- **B-7 (MIXED-USE BUSINESS) DISTRICTS**
- **RF-1 (RIVERFRONT) DISTRICTS**
- **RF-2 (RIVERFRONT) DISTRICTS**
- **CM (COLISEUM MALL) DISTRICTS**
- **DCC (DOWNTOWN CIVIC AND CULTURAL) DISTRICTS**
- **OS (OFFICE-SERVICE) DISTRICTS**
- **RP (RESEARCH PARK) DISTRICTS**
- **M-1 (LIGHT INDUSTRIAL) DISTRICTS**
- **M-2 (LIGHT INDUSTRIAL) DISTRICTS**
- **TOD-1 (TRANSIT-ORIENTED NODAL) DISTRICTS**
- **CUP (COMMUNITY UNIT PLAN) DISTRICTS***

*** = Those that permit medical offices and clinics**

The following districts have certain specified uses that are allowed as a Permitted Principal Use, which requires no special approval, or as a Conditional Use, which requires City Council approval.

Even these districts and these uses specifically restrict them from persons currently using or addicted to a controlled substance.

These are all districts that are more intense (less restricted) in the hierarchy of the zoning districts.

RO-3 (RESIDENTIAL-OFFICE) DISTRICT

Permitted principal uses.

The following uses of buildings and premises shall be permitted in the RO-3 district:

- (1) Any principal use permitted in the R-1 district as set forth in Section 30-402.1;
- (10) Uses owned and operated by a governmental agency, **but not including facilities** intended for incarceration or alternative sentencing or facilities **primarily for the care, treatment, or housing of persons who are currently using or are addicted to a controlled substance as defined in Code of Virginia, § 54.1-3401;**

I (INSTITUTIONAL) DISTRICT

Permitted principal uses.

The uses of buildings and premises listed in this section shall be permitted in the I district, subject to the master plan requirements set forth in this division.

- (7) Philanthropic, charitable and eleemosynary institutions, including social service delivery uses operated by such institutions;
- (8) Uses owned or operated by a governmental agency, **but not including facilities** intended for incarceration or alternative sentencing or facilities **primarily for the care, treatment or housing of persons who are currently illegally using or are addicted to a controlled substance as defined in Section 54.1-3401 of the Code of Virginia;**

B-3, B-4, B-5, B-6, B-7, RF-1, RF-2, DCC, M-1, M-2 & TOD-1 DISTRICTS

Principal uses

Uses owned or operated by a governmental agency, **but not including facilities** intended for incarceration or alternative sentencing or facilities **primarily for the care, treatment or housing of persons who are currently illegally using or are addicted to a controlled substance as defined in Section 54.1-3401 of the Code of Virginia;**

B-3, M-1 & M-2 DISTRICTS

Principal uses permitted by conditional use permit.

The following uses of buildings and premises may be permitted in the B-3 district by conditional use permit as set forth in article X of this chapter:

Shelters;

Social service delivery uses;

B-4 DISTRICTS

Permitted principal uses

Social service delivery uses, provided that:

- a. A plan of development shall be required as set forth in article X of this chapter;
- b. No property devoted to such use shall be situated within 500 feet of property occupied by another social service delivery use or an adult care residence, group home, lodginghouse or shelter;
- c. A management program, addressing not less than the following elements shall be submitted as part of the plan of development application. The Director of planning and development review may include as conditions, elements of the management program as part of the approval of a plan of development. If a particular element listed below is not applicable to a specific type of use because of the characteristics of that use, the management program shall include a statement of why the element is not applicable:
 1. Detailed description of the managing entity, including the organizational structure, names of the board of Directors, mission statement, and any by laws;
 2. Detailed description of programs offered on the premises, including operating procedures and characteristics, the intent of the programs and a description of how the programs support a long term strategy for meeting the clients' needs;
 3. Detailed description of off-site programs offered, and/or description of linkages to programs operated by others;
 4. Detailed description of the number and type of clients to be served, including an outline of program objectives, eligibility criteria, and requirements for referrals to other programs;
 5. Operational details for on-site programs including: hours of operation, number and type of staff, staff qualifications, and typical hours worked by staff; method of client supervision; operating procedures including procedures for orienting a new client to the facility's programs; expectations for clients; prerequisites for continued client enrollment such as a requirement that the client participate in programs; rules of behavior for clients; the location and nature of any security features and arrangements; and names and telephone numbers of persons to contact in emergencies and any emergency procedures;
 6. Annual operating budget, including sources of funding.

B-7 & TOD-1 DISTRICTS

Principal uses permitted by conditional use permit.

The following uses of buildings and premises may be permitted in the B-7 district by conditional use permit as set forth in article X of this chapter:

Social service delivery uses;

UB, UB-2, B-1, B-2, CM & RP DISTRICTS

Social Service Delivery Use and Shelters are not permitted at all.

Family shall consist of persons living together as a single housekeeping unit and shall include any of the following:

- (1) One or more persons related by blood, marriage, legal guardianship or adoption, including foster children;
- (2) Not more than three unrelated persons or a combination of related and unrelated persons;
- (3) Two unrelated adults plus children related to one or both adults by blood, marriage, legal guardianship or adoption, including foster children;
- (4) Not more than eight unrelated mentally ill, mentally retarded, or developmentally disabled persons, with one or more resident counselors or other staff persons, occupying a single dwelling unit or other residential facility for which the department of mental health, mental retardation and substance abuse services of the commonwealth is the licensing authority pursuant to the Code of Virginia, shall be considered a family.
Mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in Code of Virginia, § 54.1-3401;
- (5) Not more than eight handicapped persons, as defined by the federal fair housing act, occupying a single dwelling unit, and in addition thereto may include one or more resident counselors or other staff persons.

Social service delivery use means a use which is operated for the purpose of providing directly to persons who are members of a specific client group, as opposed to the general public, one or more services such as counseling, training, medical care, feeding, or similar services, when such use is operated on a not-for-profit basis and when no compensation or greatly reduced compensation is paid by persons receiving such service. The term "social service delivery use" shall not be construed to include uses operated by governmental agencies, facilities for housing of persons, facilities intended for incarceration or alternative sentencing, **or facilities primarily for the care or treatment of persons who are currently illegally using or are addicted to a controlled substance as defined in Code of Virginia, § 54.1-3401.** An office operated for the purpose of administration of a service agency and not intended for the delivery of a service directly to the client shall not be construed to be a "social service delivery use."



City of Richmond

(For Intracity Correspondence)

DATE: November 27, 1990

TO: Lyn Boyer, Deputy Director, DCD

FROM: Roy W. Benbow, Zoning Administrator *[Signature]*

SUBJECT: Daily Planet Shelter

As you requested, the following property locations were evaluated for the possibility of using them for the Daily Planet Shelter. The Daily Planet Substance Abuse Program's Sleep Off-Station/Public Inebriate Center (SOS) facility indicates it would include fifteen to twenty (15-20) beds plus eight (8) 'detox' beds, operate 24 hours per day and cater to intoxicated individuals turned away from other programs. It would be staffed by outreach workers and case managers and the setting would be similar to a dormitory. The SOS facility would also contain the Intensive Day Treatment Program (IDTP), which would offer intensive substance abuse treatment to homeless individuals referred from the Daily Planet Substance Abuse Program. This program would be staffed by Daily Planet Social Workers and Program Assistants and cater to chemically dependent individuals. The program would include substance abuse education, including relapse prevention planning, individual counseling, group therapy and case management as well as provide support services including health care, showers, laundry, clothing, mail, meals and storage.

1016-1026 North Fifth Street

- ° This property is currently zoned R-53 Multi-Family Residential and would not permit this type of facility without Special use approval from City Council.

501 Hospital Street (City Animal Shelter)

- ° This property is zoned M-1 Light Industrial and would not permit the use without Special use approval from City Council.

1305 North Fifth Street

- ° This property is zoned M-2 Heavy Industrial and would permit the proposed use, subject to normal zoning requirements. In this case, parking would be the only zoning requirement imposed upon the use.

I hope this information is sufficient. If you have additional questions, contact Senior Planner William Davidson or myself at extension 6340.

/vg

cc: Charles T. Peters, Jr., Director, DCD
✓ Debra Byrd, Acting Commissioner of Buildings, DCD

Staff Report: Special Use Permit to Authorize the Continued Operation of a Homeless Services Facility at 300-302 West Canal Street (The Daily Planet)

This special use permit would authorize the continued use of the existing building at 300-302 West Canal Street as a homeless services facility, including overnight accommodations. The subject property is located at the northeast corner of Canal and Belvidere Streets and is zoned B-3 General Business. The B-3 District does not permit the provision of services by eleemosynary, philanthropic and charitable organizations.

The properties to the north and west are also zoned B-3. To the north is property owned by the RMA which is traversed by an on ramp for the Downtown Expressway. A convenience store is located to the west, across Belvidere Street. The vacant property to the east and the Downtown Expressway to the south are zoned M-1 Light Industrial. The Downtown Plan designates the property for "city government" use.

The subject property, owned by the City, contains approximately 10,500 square feet of land area. The existing building on the property, containing approximately 11,000 square feet of floor area, was originally developed as a firehouse. In 1985, the City leased the premises to the Daily Planet, which provides services to low-income and homeless individuals. The Daily Planet filed a special use permit request in 1990 to authorize the establishment of a residential program and drug treatment activities on the premises, which would be accommodated through a planned expansion of the building. That special use request was stricken at the petitioner's request prior to consideration by City Council.

Following the withdrawal of the special use permit, the Zoning Administrator determined that the nature of the Daily Planet's activities were not accurately identified when the use was first established, and that all aspects of the facility's operation, not just the residential and drug treatment programs considered in the 1990 special use permit request, are not permitted in the B-3 District. The Zoning Ordinance specifies that the provision of services to the homeless by charitable, eleemosynary and philanthropic organizations is only permitted within the B-4 Central Business District and the I Institutional District. A second special use permit request was filed in 1991 to legitimize the facility, but was withdrawn when it appeared the City would sell the property to a third party for other uses, thereby resolving the zoning conflict. The property sale was officially authorized by City Council in 1993, and the petitioner initiated a search for an alternative site. A special use permit request to relocate the existing facility to Brook Road was considered and rejected in December of 1995. Following the rejection of that special use permit, the contract to sell the existing site lapsed and the City renewed the lease with the petitioner through December of 1997. Although both the City and the petitioner feel a relocation from the current site is desirable, an alternative site has not been selected by the petitioner. The petitioner, therefore, has requested this special use permit to legitimize the current facility.

This special use permit would authorize the facility to remain essentially as is, with specific terms and conditions regarding operation. The terms of the ordinance would mandate oversight by a board of directors with community representation, and would incorporate procedures for management and rules for clients of the facility. Services permitted would

include meal programs; employment and job training programs; outpatient medical treatment and counseling; outpatient substance abuse treatment; intensive case management for referrals and access to mental health treatment and social services; and a "community living room" where clients can obtain shelter during the day and make use of basic services such as lockers, showers, and telephone access. The availability of these services to Daily Planet clients would be limited to between the hours of 5:30 a.m. to 7:30 p.m. each day. In addition, as a means of minimizing potential traffic conflicts and distinguishing Daily Planet clients from those that do not participate in Daily Planet services, the petitioner would be required to have participating clients wait on premises between 4:00 and 7:00 p.m. daily, instead of spilling out onto the adjacent sidewalks and streets. The only residential component of the facility would be the "Bunkhouse" residential program, which would be offered to provide overnight accommodations to a maximum of 20 individuals that are in need of temporary shelter due to medical conditions, severe mental illness, or pending acceptance into inpatient substance abuse treatment. While approval of the special use permit would allow the homeless services facility to remain on premises from the zoning standpoint, it would not affect the current lease nor would it affect the ability of either the occupant or the City to not renew the lease.

The staff feels that for context purposes, it is important to note some of the staff's concerns about the Brook Road proposal rejected in 1995. From a program standpoint, that proposal and the current request are essentially the same, except that a second 20-person residential program is not a part of the current request. An important factor in the staff recommendation against the Brook Road proposal was a very clear Master Plan directive specifying that there should be no new institutional uses in the North District. In addition, the proposal seemed to run contrary to the policy guidance offered by the City's Consolidated Plan, which calls for the development of a "continuum of care" approach to providing services to the homeless. This approach entails the development of a network of services that would facilitate the progress of a homeless person from initial outreach, immediate health care services and temporary overnight shelter to, ultimately, permanent independent or supported housing arrangements.

During the review of the 1995 request, the staff noted that one of the key roles the Daily Planet plays in the continuum of care approach is that of the first contact point for referrals to other off-site services. This meant that although some services were to be provided on-site, many of the Daily Planet's clients were dependent upon other off-site services such as overnight shelter, meals and professional services. It was felt at the time that the petitioner had not adequately "locked in" firm cooperative agreements with the other service providers, and that programs were not in place to ensure transportation to and participation in needed off-site services. With these apparent gaps in the support systems for Daily Planet clients, it appeared that the continuum of care approach recommended by the Consolidated Plan would be weakened. It was also felt that without a strong system in place to facilitate participation in off-site programs, there would be negative impacts on the surrounding residential community.

As with the Brook Road proposal, the staff recognizes the organization's past efforts to fill some of the roles within the existing array of homeless services offered within the City and acknowledges that, at present, there is a need for the services provided by the Daily Planet. The staff and the petitioner both agree that there are some difficulties in continuing to provide the full range of services within the constraints of the existing building, and that the current request represents an interim solution until an alternative location can be developed.

In examining the appropriateness of providing such services at the subject property during this interim period, the staff notes that it is designated for "city government" use by the Downtown Plan. While not operated by City government, the existing facility does seem to fit into a quasi-government role, given its many tie-ins to various public services and its involvement in responding to publicly identified needs outlined in the City's Consolidated Plan. The staff also notes that generally, some flexibility for the property might be appropriate given that it is separated from other uses by the surrounding streets and on-ramp.

Regardless of the location of the facility, the staff feels that proper management and supportive services for clients are essential to minimizing any unreasonable impacts. This means that it must be part of an effective continuum of care system, maintained by strong links to other programs and services and supported by measures that promote client participation in those programs and services. In this case, approving this request for the current location would allow existing working relationships with other nearby service providers to continue, whereas a denial and immediate termination of the use could be disruptive to those relationships.

The staff acknowledges that there are some management related issues for the current facility that will have to be resolved within the context of continued improvement of coordination and cooperation among service providers. One critical issue that must be addressed in this manner arises from the fact that the facility provides daytime services, without ensuring that adequate overnight services are in place for the period the facility is closed. This leaves clients without a bed in an emergency or transitional shelter to find their own informal shelter arrangements though unauthorized use of public and private property around the facility. To respond to such issues, the petitioner's role may necessitate more formal linkages to other service providers, as well as additional requirements and rules of behavior for clients to meet in return for participation in certain programs. During the interim period while the facility remains at its current location, the fact that the City owns the property provides an opportunity to continually reassess the petitioner's role in that comprehensive approach, and through the lease agreement ensure that on-site programs are tailored and managed in such a way to fit that approach. At such time as buildings that are better suited for the facility become available and more support programs are developed, the control of the property provides the City the opportunity to phase out the facility's use of the site.

Given the Downtown Plan's designation for the property, the location of the site, the control and neighborhood input offered by the proposed conditions in the special use ordinance, the potential for continued refinement through future lease conditions and the potential for the City to phase out the facility's use of the property when necessary, the staff feels that the conditions and safeguards contained in the Charter relative to the granting of special use permits would be met. Approval, therefore, is recommended.

The staff has received a letter from the Downtown Neighborhood Association indicating its support for the ordinance. Phone calls have been received from two Oregon Hill residents expressing their opposition to the continued operation of the facility at the current site.

[NP3PQC

PLAN REVIEW APPROVAL

CERT/ZONING COM 02/08/13

=====

PERMIT NBR: Z99090202 ADDRESS: 1601 OVERBROOK RD APPLC DT

PROJECT NBR: EMAIL 09/02/99

PERMIT CATEGORY: IMPR = NWK USE = N CLASS = INT SQ FT 0

===== REVIEW =====

...DEPARTMENT.. RECEIVED .ACTION. ASSGN TO STAT C.O. REQ ? INSPECTOR

ZONING 09/03/99 09/10/99 FOB A YES 613

PERMIT COMMENT CODES: _____ LOC OF WK: _____

===== ADDITIONAL REVIEW INFORMATION =====

ZONING M2 SUP _____ REQ SENT RECEIVE ACTION

BZA _____ DATE DATE DATE

====PARKING==== POD _____ UDC - 000000 000000 000000

ON SITE 65 CAR _____ CAR - 000000 000000 000000

OFF SITE 0 CUP _____ POD - 000000 000000 000000

LEASE SPACE (Y/N) SUBDIVISION MAS PL 000000 000000 000000

CZC-OUTPATIENT NARCOTIC TREATMENT CLINIC (2888SF).

BLDG. REQS 33 PRKG. SPACES, TENANT REQS. 8 SPACES.

PREVIOUS C.O. ISSUED 2/19/85.

CDBG Y

NIB

FLOOD HIST DIST PROP VIOL TAX DELIQ CHES BAY MAST PLAN

PF5=REVIEW PERMIT PF11=RETURN PF12=EXIT
PERMIT NOT PEND - APPROV MAY NOT BE UPDATED



CITY OF RICHMOND, VIRGINIA
DEPARTMENT OF COMMUNITY DEVELOPMENT
BUREAU OF PERMITS AND INSPECTION

ROOM 110, 900 E. BROAD STREET
RICHMOND, VA 23219

INSP: NEIL BROOKS (804) 646-6356
MAP-REF-NO N000-1590/036

| TYPE | BP NUMBER |
|-------------------|-----------|
| ZONING COMPLIANCE | Z05011805 |

STRUCTURE LOCATION

2926 W MARSHALL ST

| FLS OCCUPIED | PERMIT FEE | DATE ISSUED |
|--------------|------------|-------------|
| | \$100.00 | 02/02/2005 |

| ZONING | SQ. FT. OCCUPY |
|--------|----------------|
| M1 | |

| OWNER OF PROPERTY | APPLICANT |
|---|--|
| CHASEN PROPERTIES L L C 4501 STUART AVE RICHMOND VA 23221 WK: (804) 399-4896 HM: | HUMAN RESOURCES, INC. KAREN ROSE 15 W. CARY ST. RICHMOND VA 23220 PH# (804) 644-4636 |

| PARKING: ONSITE | OFFSITE | LEASE REQUIRED | SUP # | VARIANCE # |
|-----------------|---------|----------------|-------|------------|
| 0 | 98 | | | |

SPECIAL TERMS AND CONDITIONS

PURPOSE: NO WORK AUTHORIZED MISC. BUSINESS

ZONING OFFICE BUILDING; TENANT SPACE FOR SUBSTANCE ABUSE
COUNSELING - NO HOUSING OR OTHER TREATMENT
SERVICES ARE PROVIDED; OFF-STREET PARKING IS
PROVIDED AT 2915 W. CLAY ST. (UNDER SAME OWNER-
SHIP)

APPROVAL OF THIS CERTIFICATE ACKNOWLEDGES COMPLIANCE WITH CHAPTER 32, ZONING OF
THE CODE OF ORDINANCES OF THE CITY OF RICHMOND, VIRGINIA, AND CONFERS NO RIGHTS
WITH RESPECT TO THE VIRGINIA UNIFORM STATEWIDE BUILDING CODE.

ALSO SEE GENERAL TERMS AND CONDITIONS ON BACK

FOR COMMISSIONER OF BUILDINGS
Neil Brooks 2-2-05
APPLICANT'S COPY

Davidson, William C. - PDR

From: Maughan, Chelse - DCD
Sent: Friday, October 27, 2006 4:31 PM
To: Davidson, William C. - DCD
Subject: Methadone Clinics

Chuck,

Am I correct that methadone clinics are only permitted in the M-2 district?

Thanks,

Chelse

Davidson, William C. - PDR

From: Bryant, Preston Jr. <pbryant@mwcllc.com>
Sent: Thursday, February 28, 2013 4:48 PM
To: Davidson, William C. - PDR
Cc: Brooks, James N. (Neil) - PDR
Subject: RE: Metro Treatment of Virginia, LP -- 2217 E. Franklin Street

[Quick look](#)

Mr. Davidson --

Thanks again for your response. We have reviewed further the zoning ordinance and Virginia Code sections. I've also reviewed other correspondence between MTV and the Virginia Department of Behavioral Health and Developmental Services regarding the 2217 E. Franklin Street site.

I note that Sec. 114-438.1 refers to a prohibition on "governmental agencies" whose facilities are "primarily for the care, treatment or housing of persons who are currently illegally using or are addicted to a controlled substance ..."

MTV, of course, is not a government agency. In the information previously provided to your office, it's noted that MTV is a privately held, for-profit entity.

So I do not see how Sec. 114-438.1 applies here.

Assuming you agree, MTV would like to proceed with the development of its facility. As noted, it's my understanding that Zoning's comments are the only ones outstanding.

Also, regarding parking, it's my understanding that as part of MTV's lease with the building owner, MTV has "exclusive use" of sufficient parking to meet your requirements. We're happy to provide that information if you don't already have it.

I would be most appreciative if you would provide me a date by which MTV will have Zoning's comments. We need to coordinate with MTV's architect and facility planner so that we can begin addressing all comments.

Also, if necessary, I am happy to meet with you to discuss this matter. My office is but a few blocks from yours. And my cell phone is below, so do feel free to call me any time.

Thanks so much for your time.

Preston

L. Preston Bryant, Jr.
Senior Vice President - Infrastructure and Economic Development
McGuireWoods Consulting, LLC
One James Center, 9th Floor
901 East Cary Street
Richmond, Virginia 23219-4030
804.775.1923 (Direct Dial)
804.381.1214 (Mobile)
804.698.2235 (Fax)
pbryant@mwcllc.com
www.McGuireWoodsConsulting.com

From: Bryant, Preston Jr.
Sent: Thursday, February 28, 2013 2:41 PM
To: 'Davidson, William C. - PDR'
Cc: Brooks, James N. (Neil) - PDR
Subject: RE: Metro Treatment of Virginia, LP -- 2217 E. Franklin Street

Mr. Davidson --

Thank you for your voice mail and this email response. We will review and will be in touch with you.

Preston

From: Davidson, William C. - PDR [<mailto:Chuck.Davidson@Richmondgov.com>]
Sent: Thursday, February 28, 2013 1:31 PM
To: Bryant, Preston Jr.
Cc: Brooks, James N. (Neil) - PDR
Subject: RE: Metro Treatment of Virginia, LP -- 2217 E. Franklin Street

Mr. Preston --

The 2012 letter indicates this was to be a medical office and clinic, which would be permitted. However, the M-1 district specifically prohibits, "facilities for the care, treatment or housing of persons who are **currently illegally using** or are **addicted to a controlled substance**" as defined in 54.1-3401 of the Virginia Code. If this caveat can be verified, a use issue does not exist.

Mr. Brooks has identified some other issues relative to the permit application. The application indicated it was to be interior renovations, but the plans include exterior work for a ramp/stair; this exterior component requires Commission of Architectural Review (CAR) review as well as encroachment approval from the Department of Public Works (DPW). In addition, he needs to resolve the parking requirement for the use.

William C. Davidson
Zoning Administrator
City Hall - Room 110
Richmond, Virginia 23219
(804) 646-6353: Direct
(804) 646-6948: FAX
(804) 646-6340: Office

Email: William.Davidson@Richmondgov.com

To access the Zoning Webpage, click on: [ZoningDivision.aspx](#)

To access the Zoning Code, click on: [Zoning Ordinance](#)

For GIS map information, click on: [City Zoning Map](#)

To check permit status, click: [Permits Inquiry - Web](#)

From: Bryant, Preston Jr. [<mailto:pbryant@mwcllc.com>]

Sent: Wednesday, February 27, 2013 12:08 PM

To: Davidson, William C. - PDR

Subject: Metro Treatment of Virginia, LP -- 2217 E. Franklin Street

Mr. Davidson --

I write on behalf of Metro Treatment of Virginia, LP, who seeks to relocate its treatment facility to 2217 E. Franklin Street.

I have been retained by Colonial Management Group, LP, the parent company of MTV, to work on their behalf to resolve any outstanding issues with your office.

I am in receipt of your Oct. 18, 2012, letter granting zoning approval to MTV for the 2217 E. Franklin Street site. I also have reviewed other correspondence.

As I understand it, MTV has received comment (informal at this time) from all other city departments. Still outstanding is comment from your office.

MTV would like to receive comment from your office so that they can formally begin addressing all departments' comments.

I exchanged voice mails yesterday with Mr. Brooks, who referred me to you. I have left a voice mail with your office this morning.

I would like to discuss with you the status of your office's comments regarding MTV's relocation to 2217 E. Franklin Street.

I am quite flexible today and can receive your phone call. My direct dial is below.

Thank you for the work you do on behalf of the City. I look forward to talking with you.

Preston

L. Preston Bryant, Jr.
Senior Vice President - Infrastructure and Economic Development
McGuireWoods Consulting, LLC
One James Center, 9th Floor
901 East Cary Street
Richmond, Virginia 23219-4030
804.775.1923 (Direct Dial)
804.381.1214 (Mobile)
804.698.2235 (Fax)
pbryant@mwcllc.com
www.McGuireWoodsConsulting.com

Davidson, William C. - PDR

From: Glenn R. Moore <gmoore@nthblaw.com>
Sent: Thursday, January 8, 2015 2:56 PM
To: Davidson, William C. - PDR
Subject: RE: Zoning Inquiry

Quick Look

Thanks, Chuck. If I have further questions, I'll get back to you.

Glenn R. Moore
Thorsen, Honey, Baldwin & Meyer L.L.P.
5600 Grove Avenue
Richmond, VA 23226

[Gmoore@nthblaw.com](mailto:gmoore@nthblaw.com)
Office – 804 285-3888
Mobile – 804 356-5479
Facsimile – 804 285-7779
Website – www.nthblaw.com

From: Davidson, William C. - PDR [<mailto:Chuck.Davidson@Richmondgov.com>]
Sent: Thursday, January 08, 2015 2:40 PM
To: Glenn R. Moore
Subject: RE: Zoning Inquiry

Sorry for the delay; I was out of the office from December 22nd until this past Monday and am going through hundreds of E-mails. Hope your holidays and New Year were spent well with friends and family.

A determination was made on this many years ago restricting them to the M-2 (Heavy Industrial) district.

William C. Davidson
Zoning Administrator
City Hall - Room 110
Richmond, Virginia 23219
(804) 646-6353: Direct

(804) 646-6948: FAX
(804) 646-6340: Office

Email: William.Davidson@Richmondgov.com

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To access the Zoning Code, click on: [Zoning Ordinance](#)

For GIS map information, click on: [City Zoning Map](#)

To check permit status, click: [Permits Inquiry - Web](#)

From: Glenn R. Moore [<mailto:gmoore@mthblaw.com>]
Sent: Monday, December 29, 2014 11:25 AM
To: Davidson, William C. - PDR
Subject: Zoning Inquiry

Chuck,

Happy New Year to you. I trust that you have been well, and that you have all city zoning issues under control.

I have a friend/client who is considering the establishment of a methadone clinic in the City. I would assume that the clinic would be considered as a medical clinic, and would be permitted in zoning districts that permit such use. However, I may be missing something, so I would appreciate your thoughts. Secondly, the clinic may be mobile in nature. I don't know how that fact would change the zoning determination, but I felt that it should be disclosed. I guess the mobile nature of the clinic could also raise unusual parking questions.

Assuming a permitted location can be found, what confirmation regarding the permissibility of the use would he need from your office?

I hope this is a permitted way to raise my questions. If you need the inquiries submitted in a different manner, please let me know.

Glenn

Glenn R. Moore
Thorsen, Honey, Baldwin & Meyer L.L.P.
5600 Grove Avenue
Richmond, VA 23226

Gmoore@mtblaw.com

Office – 804 285-3888

Mobile – 804 356-5479

Facsimile – 804 285-7779

Website – www.mtblaw.com

Davidson, William C. - PDR

From: Davidson, William C. - PDR
Sent: Monday, February 10, 2020 3:09 PM
To: Davidson, William C. - PDR
Subject: 15 West Cary Street

[illegible]

Davidson, William C. - PDR

From: Son, Joshua L. - ECD
Sent: Tuesday, September 29, 2015 3:27 PM
To: Davidson, William C. - PDR
Subject: FW: Licensed Day Cares near medical sites

Chuck,

I was a little confused with his request but wanted to clarify that this use (below) is required to be in an M2? he mentioned to me there would not be any overnight stays and likens them as a competitor to Richmond Treatment Centers at 2217 E Franklin which is not an M2.

Thanks,
-Josh

From: John Jay Schwartz [mailto:jjschwartz@havesitewilltravel.com]
Sent: Friday, September 25, 2015 11:04 AM
To: Son, Joshua L. - ECD
Subject: RE: Licensed Day Cares near medical sites

It is a methadone clinic where they offer counseling and the meds only. They open around 5am and all the patients are gone by about 11am and the staff leaves by 1ish. Does that help? it's called Sellati & CO, check out their website.

John Jay Schwartz, MCR, RPA, IBC

"The Man with Square Feet"

VCU 1st Ultimate RAM

804-350-1866

From: Son, Joshua L. - ECD [mailto:Joshua.Son@richmondgov.com]
Sent: Friday, September 25, 2015 11:00 AM
To: John Jay Schwartz
Subject: RE: Licensed Day Cares near medical sites

Ok, I want to clarify what your specific need is regarding locating your client in the city (disregard the proximity to the daycare facility as we can determine that later.)

-Josh

Davidson, William C. - PDR

From: Pitts, Marianne G. - PDR
Sent: Friday, July 22, 2016 10:58 AM
To: Davidson, William C. - PDR
Subject: RE: Zoning Regulations Regarding Methadone Clinics

Quick Look

Thank you for the insight.

Marianne Pitts
Planning and Preservation Division
Department of Planning and Development Review
City Hall, Room 510
900 East Broad Street
Richmond, Virginia 23219-1907
Ph. (804)646-7550
marianne.pitts@richmondgov.com

From: Davidson, William C. - PDR
Sent: Friday, July 22, 2016 10:52 AM
To: 'Nathan Hughes'; Pitts, Marianne G. - PDR
Subject: RE: Zoning Regulations Regarding Methadone Clinics

This issue was discussed back in 2012 when the use first located at this location.

The 30-day appeal language is required by Virginia law. The clinic is an outpatient medical facility and not a use owned or operated by a governmental agency, so that provision is not relevant, but by law the patients do not meet the other requirements. M-2 permits all uses not specified permitted or delineated anywhere else by the zoning; the previous use of the building was an M-2 use.

The Virginia agency responsible for the approval (in 2012) indicated that the proximity to the school was not applicable due to the operator already having been located within City limits; they were only re-locating.

As a result of this business locating at this location, the law was amended.

From: Nathan Hughes [<mailto:nathan@sperityventures.com>]

Sent: Friday, July 22, 2016 9:47 AM

To: Pitts, Marianne G. - PDR

Cc: Davidson, William C. - PDR

Subject: Re: Zoning Regulations Regarding Methadone Clinics

Marianne & Chuck-

Thank you for your ongoing help with this!

The letter is a little confusing to me. The way I read it, it looks like it was advised that a medical clinic could go in that zoning.

Is the bolded appeal info at the end of the letter standard? That jumped out to us as an indication that the letter was actually denying their approval request. (otherwise, why would they have the option or need to appeal an approval)

This is a drug rehabilitation facility, which would be excluded from most areas by this language found throughout the zoning ordinances "Uses owned or operated by a governmental agency, but not including facilities intended for incarceration or alternative sentencing or facilities primarily for the care, treatment or housing of persons who are currently illegally using or are addicted to a controlled substance as defined in section 54.1-3401 of the Code of Virginia"

And one of my team put in an information request about zoning requirements for a methadone clinic yesterday with your department and received an email back confirming that M-2 is the only appropriate zoning for such a use.

Was this changed at some point along the way?

Thanks!

Nathan Hughes
Principal Broker

Sperity Real Estate Ventures
213 East Grace Street, Suite 101
Richmond, Virginia 23219
804-349-1000 mobile

On Fri, Jul 22, 2016 at 9:01 AM, Pitts, Marianne G. - PDR <Marianne.Pitts@richmondgov.com> wrote:

Chuck,

I had a question CAR Commissioner regarding a methadone clinic at 2217 E. Franklin Street. Are there any zoning regulations that limit the locations of methadone clinics? This clinic is across the street from a school that is up the hill on East Grace. I found the Zoning confirmation letter attached to the parcel which appears to indicate that the use is allowed per the City regulations, but I was hoping to confirm this with you. The Commissioner has spoken with other operators methadone clinics who have stated that they are not allowed to operate within a 1/2 mile of a school which I think is regulated by § 37.2-406. (A) of the VA Code. Any thoughts on this would be greatly appreciated.

Thank you,

Marianne

Marianne Pitts

Planning and Preservation Division

Department of Planning and Development Review

City Hall, Room 510

900 East Broad Street

Richmond, Virginia 23219-1907

Ph. (804)646-7550

marianne.pitts@richmondgov.com

Davidson, William C. - PDR

From: Baliles, Jonathan T. - CAO/Mayor's Office
Sent: Tuesday, October 24, 2017 3:59 PM
To: Davidson, William C. - PDR
Subject: RE: Methadone Center

Quick Look

Gracias.

From: Davidson, William C. - PDR
Sent: Tuesday, October 24, 2017 3:19 PM
To: Baliles, Jonathan T. - CAO/Mayor's Office
Subject: Methadone Center

Requires M-2 (Heavy Industrial) zoning.

Concentrations of it along James River, I-95, Valley Road in Shockoe Bottom, North Hopkins Road, Jeff Davis Hwy, etc.
ECD should have some inventory of available buildings of this size range.

You might not want to give them the specific user when asking; I'd just indicate 10,000-12,000 size near transit for a office/clinic user.

William C. Davidson
Zoning Administrator
City Hall - Room 110
Richmond, Virginia 23219
(804) 646-6353: Direct
(804) 646-6948: FAX
(804)646-6340: Office

Email: William.Davidson@Richmondgov.com

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To check the status of plan reviews and inspection results go to:

http://energov.richmondgov.com/EnerGov_Prod/CitizenAccess/Site/Public/Main

Please remember in the city's new permitting system that when an application is submitted it receives a plan number and when it is issued it receives a permit number.

From: Baliles, Jonathan T. - CAO/Mayor's Office
Sent: Tuesday, October 24, 2017 11:25 AM
To: Davidson, William C. - PDR
Subject: FW: Methadone Center

Chueck – is this in your wheelhouse or can you point me to the person who would handle this?

Thx.

Jon,

Good to see you guys yesterday, great event and beautiful chamber type RVA day.

The Richmond Treatment Center has been located at 2217 East Franklin Street for 5 years without incident. The problem as clearly noted in the daily news is the drug problem in the area is not going away by itself. This company is doing all they can do to help but the 6,500+/- sq. ft. is too small. They need between 10-12,000 square feet in the City. The state has 2 site restrictions; can't be within 1/2 mile of a school or licensed day care center. This makes it tough along with finding an ideal spot with proper zoning. Any assistance on the allowed zoning will help point me to locations without the state restrictions.

Thanks again for your help and I look forward to that picture from Saturday. Best regards.

John

Davidson, William C. - PDR

From: Saunders, Richard L. - PDR
Sent: Friday, March 29, 2019 10:34 AM
To: Davidson, William C. - PDR
Subject: RE: Applegate Health Services, Inc.
Attachments: 2012-10-18-2217.pdf

It had been M-1. See attached letter from 2012.

Richard L Saunders III, AICP

Planner II
City of Richmond
Planning & Development Review
Zoning Administration Division
804.646.6356
richard.saunders@richmondgov.com



From: Davidson, William C. - PDR
Sent: Friday, March 29, 2019 10:08 AM
To: Saunders, Richard L. - PDR
Subject: Re: Applegate Health Services, Inc.

Methadone clinic? That was nonconforming M-2 that got them there.

Sent from my iPad

On Mar 29, 2019, at 10:05 AM, Saunders, Richard L. - PDR <Richard.Saunders@richmondgov.com> wrote:

OK, we approved one on E Franklin in B-5 and called it a clinic.

Richard L Saunders III, AICP
Planner II
City of Richmond

**Planning & Development Review
Zoning Administration Division
804.646.6356**

richard.saunders@richmondgov.com
<image001.png>

From: Davidson, William C. - PDR
Sent: Friday, March 29, 2019 10:05 AM
To: Saunders, Richard L. - PDR
Subject: Re: Applegate Health Services, Inc.

Similar concept. We need to pull-back and look closely at.

Sent from my iPad

On Mar 29, 2019, at 10:02 AM, Saunders, Richard L. - PDR <Richard.Saunders@richmondgov.com> wrote:

Office-based opioid treatment would be considered a methadone clinic?

Richard L Saunders III, AICP
Planner II
City of Richmond
Planning & Development Review
Zoning Administration Division
804.646.6356
richard.saunders@richmondgov.com
<image001.png>

From: Davidson, William C. - PDR
Sent: Friday, March 29, 2019 9:59 AM
To: Saunders, Richard L. - PDR
Subject: Re: Applegate Health Services, Inc.

We only allow methadone clinics in M-2.

Sent from my iPad

On Mar 29, 2019, at 8:35 AM, Saunders, Richard L. - PDR <Richard.Saunders@richmondgov.com> wrote:

This sounds OK as medical office to me. Do you agree?

Richard L Saunders III, AICP

Planner II

City of Richmond

Planning & Development Review

Zoning Administration Division

804.646.6356

richard.saunders@richmondgov.com

<image001.png>

From: Andrew Blake [<mailto:andrew@thecolemaninstitute.com>]

Sent: Thursday, March 28, 2019 5:50 PM

To: Saunders, Richard L. - PDR

Cc: Davidson, William C. - PDR

Subject: RE: Applegate Health Services, Inc.

Hi Mr. Saunders—Thank you for reaching out with your questions.

? Applegate Health Services, Inc. is a for-profit entity.

? No state license should be required besides Dr. Peter Coleman's existing Virginia medical license. The Department of Behavioral Health and Developmental Services (DBHDS) Office of Licensing Technical Assistance says that no DBHDS license is required for office-based opioid treatment (OBOT) services. I've inserted the relevant section below, and the full document is here:

[http://www.dmas.virginia.gov/files/links/351/DBHDS%20OTPMAT%20License%20Technical%20Assistance%20\(March%202017\).pdf](http://www.dmas.virginia.gov/files/links/351/DBHDS%20OTPMAT%20License%20Technical%20Assistance%20(March%202017).pdf)

With the Opioid Epidemic we're experiencing, there's been a real push from state agencies to expand access to evidence-based medical treatments and we're trying to pitch in and do our part in the Richmond area. Please let me know if you need any other information.

Thank you,

Andrew

<image003.png>

From: Saunders, Richard L. - PDR <Richard.Saunders@richmondgov.com>

Sent: Thursday, March 28, 2019 7:59 AM

To: Andrew Blake <andrew@thecolemaninstitute.com>

Cc: Davidson, William C. - PDR <Chuck.Davidson@Richmondgov.com>

Subject: Applegate Health Services, Inc.

Mr. Blake,

I am reviewing the certificate of zoning compliance application and need to verify whether or not "Applegate Health Services, Inc.," which is described as "office-based opioid treatment," is for-profit or not-for-profit. Also, what licenses will be sought by state agencies?

Thanks in advance,
Rich

Richard L Saunders III, AICP

Planner II

City of Richmond

Planning & Development Review

Zoning Administration Division

804.646.6356

richard.saunders@richmondgov.com

<image001.png>

From: Deborah Cribb [DCribb@hirschlerlaw.com]
Sent: Wednesday, April 10, 2019 2:57 PM
To: Saunders, Richard L. - PDR
Cc: Davidson, William C. - PDR; Julian Pedini
Subject: RE: Zoning Confirmation Letter- Circle Shopping Center

Rich –

I've been advised that the only information we've been provided is that the proposed use is for a for-profit, physician run clinic, where medicine will be administered on site.

Can you advise when we can expect the letter? Thank you,

Debbie

From: Saunders, Richard L. - PDR <Richard.Saunders@richmondgov.com>
Sent: Wednesday, April 10, 2019 10:49 AM
To: Deborah Cribb <DCribb@hirschlerlaw.com>
Cc: Davidson, William C. - PDR <Chuck.Davidson@Richmondgov.com>
Subject: [EXTERNAL] Zoning Confirmation Letter- Circle Shopping Center

Ms. Cribb:

I am working on the zoning confirmation letter requested for this property and need a bit more information.

- What type of substances are clients being prescribed and/or treated for (for the proposed use of a "health clinic (for substance abuse)"?)
- Is the business nonprofit or for-profit?
- Will medicine be administered to clients on-site?

Thanks in advance,
Rich

Richard L Saunders III, AICP
Planner II
City of Richmond
Planning & Development Review
Zoning Administration Division
804.646.6356
richard.saunders@richmondgov.com



Deborah L Cribb
Paralegal

D: 804.771.5619
dcribb@hirschlerlaw.com

Hirschler

2100 East Cary Street | Richmond, VA 23223-7078
P: 804.771.9500 | F: 804.644.0957 | hirschlerlaw.com

Hirschler Fleischer, A Professional Corporation Confidentiality Note: This e-mail and any attachments are confidential and may be protected by legal privilege. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of this e-mail or any attachment is prohibited. If you have received this e-mail in error, please notify us immediately by returning it to the sender and delete this copy from your system. Thank you for your cooperation.

May 6, 2019

Hirschler
2100 East Cary Street
Richmond, Virginia 23223
Attn: Deborah L. Cribb

Re: Certification of Zoning: 449-A Belt Boulevard
Tax Parcel ID No. C006-0154/038
Circle Shopping Center (the "Property")

Ladies and Gentlemen:

In response to your letter dated March 28, 2019, as of the date of this letter, please be advised of the following:

1. The property is located within the corporate limits of the City of Richmond, Virginia.
2. The Property is located in both the M-1 (Light Industrial) and B-3 (General Business) districts and is subject only the use restrictions generally applicable to those classifications which are contained in the City of Richmond Zoning Ordinance (the "Zoning Ordinance"). The entirety of the building that contains the address of 449-A is located within the M-1 zoning district and is subject only to the use restrictions generally applicable to that classification which is contained within the Zoning Ordinance. The Property is also subject to a special use permit (Ord. No. 2010-194-2011-6) which authorized two freestanding signs that exceed area requirements for the portion of the property located within the B-3 (General Business) zoning district. Copies of the special use permit and sections of the Zoning Ordinance applicable to the Property, including parking, setbacks and height and bulk requirements, are enclosed. Also enclosed is a copy of the zoning section sheet indicated the zoning district classification of the Property.
3. For-profit medical offices are permitted by-right on the Property. The use as a medical office does not encompass the treatment of controlled substances, which is a use not defined within the zoning ordinance and is not permitted on the Property. Per Sec. 30-438.1(57) of the zoning ordinance, uses owned or operated by a governmental agency are permitted, provided that "treatment or housing of persons who are currently illegally using or are addicted to a controlled substance" as defined in the Code of Virginia is not permitted. "Treatment or housing of persons who are currently illegally using or are addicted to a controlled substance" by a private agency is not listed as a permitted in use

in the M-1 or B-3 district regulations, therefore is only permitted as a use undefined in the M-2 district.

4. The zoning yard (setback) requirements for the proposed use are:

Front: None
Rear: None
Side: None
5. The parking requirement for the propose use is one space per three hundred square feet of floor area. The zoning ordinance does not require a minimum number of handicapped parking spaces.
6. Ingres and egress to and from the Property is to and from publicly dedicated roadways.
7. There are no applications pending for rezoning of the Property, or for a conditional use permit or variance in connection with the Property.
8. The Property is currently in compliance with the Zoning Ordinance, including but not limited to all regulations regarding setbacks, density, parking and height.
9. This department has no record of any pending zoning violations having been filed with respect to the Property, and the undersigned is unaware of any violations of the applicable portions of the Zoning Ordinance.

You are hereby advised that you have thirty (30) days from this notice in which to appeal this decision to the Board of Zoning Appeals, in accordance with §15.2-2311 of the Code of Virginia and §17.19 of the Richmond City Charter, or this decision shall be final and unappealable. Such appeal must be in writing and must be filed with the Secretary to the Board of Zoning Appeals. Said appeal shall indicate in specific terms the grounds for the appeal and must be accompanied by a filing fee of two hundred and fifty dollars (\$250.00).

Please be advised that this office does not issue opinions with respect to compliance with building codes, fire codes or other health and safety regulations that may pertain. For building code issues, contact Ray Abbasi, Operations Manager at 646-7483. For fire and safety questions, contact Fire and Emergency Services at 646-6640.

I hope that this information is sufficient. If you should desire additional information or have questions concerning this letter, please contact Rich Saunders by Email: at: Richard.Saunders@Richmondgov.com or by telephone at: (804) 646-6356.

Sincerely,

Zoning Administrator
City of Richmond, Virginia

Deborah L. Cribb
RE: 449-A Belt Boulevard
May 6, 2019
Page 3

cc: Eagledale Realty LLC
10689 N Pennsylvania Street, #100
Indianapolis, IN 46280

Davidson, William C. - PDR

From: Brian Jackson <BJackson@hirschlerlaw.com>
Sent: Thursday, May 9, 2019 1:45 PM
To: Davidson, William C. - PDR
Subject: RE: Zoning Confirmation Letter- Circle Shopping Center (449-A Belt Blvd. - Parcel ID: C0060154038)

Importance: High

Chuck, Here is the information you requested:

1. The owner operates opioid treatment program focused exclusively on those patients with an addiction to opiates/opioids and attempts to help them achieve abstinence and experience recovery from opiate addiction. Utilizing • Buprenorphine/Naloxone Tablet 2mg/0.5 mg (also known as generic suboxone) • Buprenorphine/Naloxone Tablet 8mg/8mg (also known as generic suboxone) • Buprenorphine Tablet 2mg • Buprenorphine Tablet 8 mg • Methadone HCL Tablet 10mg • Methadone HCL Tablet 40 mg • Methadone HCL Oral Solution Cherry 10 mg/mL
2. Yes they are both Federally and State licensed. Agencies include: SAMHSA/CSAT, DEA, State Mental Health, State Board of Pharmacy, and any city or county licenses required for businesses.
3. Prescribing and Dispensing Schedule II and Schedule III narcotics. Dispensing will occur within the facility in a licensed Pharmacy. This Pharmacy is not open to the public.

I look forward to discussing this tomorrow. Thanks.

- Brian

From: Davidson, William C. - PDR <Chuck.Davidson@Richmondgov.com>
Sent: Thursday, May 9, 2019 7:31 AM
To: Brian Jackson <BJackson@hirschlerlaw.com>
Subject: [EXTERNAL] Re: Zoning Confirmation Letter- Circle Shopping Center (449-A Belt Blvd. - Parcel ID: C0060154038)

I am out today, but will be in tomorrow. My schedule is loaded, but I will give you a call during a break.

From my recollection, the Shockoe facility was approved as a conversion from a previous M-2 use. There was also another distinction in that there was no on-site medical services other than the receiving/pick-up of prescribed medication.

Sent from my iPad

> On May 9, 2019, at 4:58 AM, Brian Jackson wrote:

>

> I left a message Tuesday and yesterday. I'll send the information today, but just want to chat briefly since the same company with the exact same use is operating in Shickoe in B-5 for several years now. I believe we had a similar discussion when they located there. Do you have a few minutes to talk today?

>

>

> - Brian

>

> From: "Davidson, William C. - PDR"

> Sent: May 8, 2019 11:01 PM

> To: Brian Jackson

> Subject: [EXTERNAL] Re: Zoning Confirmation Letter- Circle Shopping Center

>

> When did you call? I have been out most of this week, but checked my phone messages yesterday morning.

>

> I have been requesting additional, and more specific information. When can we expect it?

>

> Sent from my iPad

>

> On May 8, 2019, at 4:03 PM, Brian Jackson <BJackson@hirschlerlaw.com> wrote:

>

> Hi Chuck,

>

> I have been trying to reach you about this. Can you call me at 771-9545 or let me know a good time to call you. Thanks.

>

> - Brian

>

> From: Saunders, Richard L. - PDR <Richard.Saunders@richmondgov.com>

> Sent: Tuesday, May 7, 2019 9:54 AM

> To: Julian Pedini <JPedini@hirschlerlaw.com>

> Cc: Deborah Cribb <DCribb@hirschlerlaw.com>; Davidson, William C. - PDR <Chuck.Davidson@Richmondgov.com>

> Subject: [EXTERNAL] RE: Zoning Confirmation Letter- Circle Shopping Center (449-A Belt Blvd. - Parcel ID: C0060154038)

>

> Jules,

>

> After speaking with Chuck, we need the following information in order to provide a letter:

>

>

> · A detailed description of the use and what clients they are serving and what drugs are being dispensed.

>

> · Does this use require any State or federal approval(s)?

>

> · What Class of narcotics are being dispensed and/or prescribed?

>

> If this is not information that you are able to provide then we can send over a refund form.

>

> Richard L Saunders III, AICP

> Planner II

> City of Richmond
 > Planning & Development Review
 > Zoning Administration Division
 > 804.646.6356
 > richard.saunders@richmondgov.com
 >
 >
 >
 > Brian K. Jackson
 > Partner
 > D: 804.771.9545
 > bjackson@hirschlerlaw.com
 >
 > Hirschler
 > 2100 East Cary Street | Richmond, VA 23223-7078
 > P: 804.771.9500 | F: 804.644.0957 | [hirschlerlaw.com](http://www.hirschlerlaw.com)<<http://www.hirschlerlaw.com>>
 > From: Julian Pedini [<mailto:JPedini@hirschlerlaw.com>]
 > Sent: Wednesday, May 01, 2019 9:55 AM
 > To: Saunders, Richard L. - PDR; Davidson, William C. - PDR
 > Cc: Deborah Cribb
 > Subject: RE: Zoning Confirmation Letter- Circle Shopping Center (449-A Belt Blvd. - Parcel ID: C0060154038)
 >
 > Good morning, gentlemen.
 >
 > Is there an update on this zoning confirmation letter (requested on March 28)?
 >
 > If not, please let me know when you expect to have one, so I can update our client. Per Rich's earlier e-mail, below, we were expecting the letter during the week of April 15.
 >
 > Thank you,
 >
 > Jules
 >
 > From: Julian Pedini <JPedini@hirschlerlaw.com>
 > Sent: Monday, April 22, 2019 4:21 PM
 > To: 'Davidson, William C. - PDR' <Chuck.Davidson@Richmondgov.com>; 'Saunders, Richard L. - PDR' <Richard.Saunders@richmondgov.com>
 > Cc: Deborah Cribb <dcribb@hirschlerlaw.com>
 > Subject: RE: Zoning Confirmation Letter- Circle Shopping Center
 >
 > Good afternoon Mr. Davidson.
 >
 > In connection with our recent request for a zoning confirmation letter, I have spoken a few times with Rich regarding permitted uses in the M-1 district.
 > I know Rich has had some discussions with you since your return to the office late last week. He mentioned that a draft letter would be issued soon, so I'm checking in to see if you have an ETA on the draft.
 >
 > Also, do you expect any issues with a physician-run health clinic for the treatment of substance abuse being a permitted use under "medical and dental offices and clinics"?
 >

> Please let me know. I would be happy to discuss.

>

> Thanks,

>

> Jules

> (804) 771-9531

>

> From: Julian Pedini <JPedini@hirschlerlaw.com>

> Sent: Wednesday, April 10, 2019 6:14 PM

> To: 'Saunders, Richard L. - PDR' <Richard.Saunders@richmondgov.com>; Deborah Cribb
<dcribb@hirschlerlaw.com>

> Cc: Davidson, William C. - PDR <Chuck.Davidson@Richmondgov.com>

> Subject: RE: Zoning Confirmation Letter- Circle Shopping Center

>

> Rich,

>

> Thank you for your response and for your work on the letter for our client. If privately run, why would a methadone clinic not be permitted in B-3? The proposed use would not be owned or operated by a governmental agency.

>

> Jules

>

> From: Saunders, Richard L. - PDR <Richard.Saunders@richmondgov.com>

> Sent: Wednesday, April 10, 2019 4:25 PM

> To: Deborah Cribb <DCribb@hirschlerlaw.com>

> Cc: Davidson, William C. - PDR <Chuck.Davidson@Richmondgov.com>; Julian Pedini
<JPedini@hirschlerlaw.com>

> Subject: [EXTERNAL] RE: Zoning Confirmation Letter- Circle Shopping Center

>

> OK, thank you Debbie. I ask because a methadone clinic would not be permitted in the B-3 district, so that language will need to be included in the letter. You can expect the letter sometime next week.

>

> Thanks,

> Rich

>

> Richard L Saunders III, AICP

> Planner II

> City of Richmond

> Planning & Development Review

> Zoning Administration Division

> 804.646.6356

> richard.saunders@richmondgov.com

>

>

>

> Julian A Pedini

> D: 804.771.9531

> jpedini@hirschlerlaw.com

>

> Hirschler

> 2100 East Cary Street | Richmond, VA 23223-7078

> P: 804.771.9500 | F: 804.644.0957 | [hirschlerlaw.com](http://www.hirschlerlaw.com)<<http://www.hirschlerlaw.com>>
> From: Deborah Cribb [<mailto:DCribb@hirschlerlaw.com>]
> Sent: Wednesday, April 10, 2019 2:57 PM
> To: Saunders, Richard L. - PDR
> Cc: Davidson, William C. - PDR; Julian Pedini
> Subject: RE: Zoning Confirmation Letter- Circle Shopping Center
>
> Rich –
>
> I've been advised that the only information we've been provided is that the proposed use is for a for-profit, physician run clinic, where medicine will be administered on site.
>
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>
> Debbie
>
> From: Saunders, Richard L. - PDR <Richard.Saunders@richmondgov.com>
> Sent: Wednesday, April 10, 2019 10:49 AM
> To: Deborah Cribb <DCribb@hirschlerlaw.com>
> Cc: Davidson, William C. - PDR <Chuck.Davidson@Richmondgov.com>
> Subject: [EXTERNAL] Zoning Confirmation Letter- Circle Shopping Center
>
> Ms. Cribb:
>
> I am working on the zoning confirmation letter requested for this property and need a bit more information.
>
>
> · What type of substances are clients being prescribed and/or treated for (for the proposed use of a "health clinic (for substance abuse)"?)
>
> · Is the business nonprofit or for-profit?
>
> · Will medicine be administered to clients on-site?
>
> Thanks in advance,
> Rich
>
> Richard L Saunders III, AICP
> Planner II
> City of Richmond
> Planning & Development Review
> Zoning Administration Division
> 804.646.6356
> richard.saunders@richmondgov.com
>
>
>
> Deborah L Cribb
> Paralegal
> D: 804.771.5619
> dcribb@hirschlerlaw.com

>
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> 2100 East Cary Street | Richmond, VA 23223-7078
> P: 804.771.9500 | F: 804.644.0957 | [hirschlerlaw.com](http://www.hirschlerlaw.com)<<http://www.hirschlerlaw.com>>

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>
>
>

July 1, 2019

Hirschler
2100 East Cary Street
Richmond, Virginia 23223

Attn: Deborah L. Cribb

**RE: Certification of Zoning: 449-A Belt Boulevard - Circle Shopping Center
(Tax Map: C006-0154/038) - (the "Property")**

Ladies and Gentlemen:

In response to your letter dated March 28, 2019, as of the date of this letter, please be advised of the following:

1. The property is located within the corporate limits of the City of Richmond, Virginia.
2. The Property is located in both the M-1 (Light Industrial) and B-3 (General Business) districts and is subject only the use restrictions generally applicable to those classifications which are contained in the City of Richmond Zoning Ordinance (the "Zoning Ordinance"). The entirety of the building that contains the address of 449-A is located within the M-1 zoning district and is subject only to the use restrictions generally applicable to that classification which is contained within the Zoning Ordinance. The Property is also subject to a special use permit (Ord. No. 2010-194-2011-6) which authorized two freestanding signs that exceed area requirements for the portion of the property located within the B-3 (General Business) zoning district. Copies of the special use permit and sections of the Zoning Ordinance applicable to the Property, including parking, setbacks and height and bulk requirements, are enclosed. Also enclosed is a copy of the zoning section sheet indicated the zoning district classification of the Property.
3. For-profit medical offices are permitted by-right on the Property. The use as a medical office does not encompass the treatment of controlled substances, which is a use not defined within the zoning ordinance and is not permitted on the Property. Per Sec. 30-438.1(57) of the zoning ordinance, uses owned or operated by a governmental agency are permitted, provided that "treatment or housing of persons who are currently illegally using or are addicted to a controlled substance" as defined in the Code of Virginia is not permitted. "Treatment or housing of persons who are currently illegally using or are addicted to a controlled substance" by a private agency is not listed as a permitted in use

in the M-1 or B-3 district regulations, therefore is only permitted as a use undefined in the M-2 district.

4. The zoning yard (setback) requirements for the proposed use are:

Front: None
Rear: None
Side: None
5. The parking requirement for the propose use is one space per three hundred square feet of floor area. The zoning ordinance does not require a minimum number of handicapped parking spaces.
6. Ingres and egress to and from the Property is to and from publicly dedicated roadways.
7. There are no applications pending for rezoning of the Property, or for a conditional use permit or variance in connection with the Property.
8. The Property is currently in compliance with the Zoning Ordinance, including but not limited to all regulations regarding setbacks, density, parking and height.
9. This department has no record of any pending zoning violations having been filed with respect to the Property, and the undersigned is unaware of any violations of the applicable portions of the Zoning Ordinance.

You are hereby advised that you have thirty (30) days from this notice in which to appeal this decision to the Board of Zoning Appeals, in accordance with §15.2-2311 of the Code of Virginia and §17.19 of the Richmond City Charter, or this decision shall be final and unappealable. Such appeal must be in writing and must be filed with the Secretary to the Board of Zoning Appeals. Said appeal shall indicate in specific terms the grounds for the appeal and must be accompanied by a filing fee of two hundred and fifty dollars (\$250.00).

Please be advised that this office does not issue opinions with respect to compliance with building codes, fire codes or other health and safety regulations that may pertain. For building code issues, contact Ray Abbasi, Operations Manager at 646-7483. For fire and safety questions, contact Fire and Emergency Services at 646-6640.

I hope that this information is sufficient. If you should desire additional information or have questions concerning this letter, please contact Rich Saunders by Email: at: Richard.Saunders@Richmondgov.com or by telephone at: (804) 646-6356.

Sincerely,

Zoning Administrator
City of Richmond, Virginia

Deborah L. Cribb
RE: 449-A Belt Boulevard
April 22, 2019
Page 3

cc: Eagledale Realty LLC
10689 N Pennsylvania Street, #100
Indianapolis, Indiana 46280

§ 54.1-3401. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by (i) a practitioner or by his authorized agent and under his direction or (ii) the patient or research subject at the direction and in the presence of the practitioner.

"Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of drugs or devices.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

"Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone.

"Animal" means any nonhuman animate being endowed with the power of voluntary action.

"Automated drug dispensing system" means a mechanical or electronic system that performs operations or activities, other than compounding or administration, relating to pharmacy services, including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of all transaction information, to provide security and accountability for such drugs.

"Board" means the Board of Pharmacy.

"Bulk drug substance" means any substance that is represented for use, and that, when used in the compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that are used in the synthesis of such substances.

"Change of ownership" of an existing entity permitted, registered or licensed by the Board means (i) the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a partnership, or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the voting stock of which is actively traded on any securities exchange or in any over-the-counter market; (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly-owned subsidiary owning the entity with another business or corporation; or (v) the expiration or forfeiture of a corporation's charter.

"Compounding" means the combining of two or more ingredients to fabricate such ingredients into a single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in expectation of receiving a valid prescription based on observed prescribing patterns; (ii) by or for a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as an incident to his administering or dispensing, if authorized to dispense, a controlled substance in the course of his professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or chemical analysis and not for sale or for dispensing. The mixing, diluting, or reconstituting of a manufacturer's product drugs for the purpose of administration to a patient, when performed by a practitioner of medicine or osteopathy licensed under Chapter 29 (§ 54.1-2900 et seq.), a person supervised by such practitioner pursuant to subdivision A 6 or A 19 of § 54.1-2901, or a person supervised by such practitioner or a licensed nurse practitioner or physician assistant pursuant to subdivision A 4 of § 54.1-2901 shall not be considered compounding.

"Controlled substance" means a drug, substance or immediate precursor in Schedules I through VI of this chapter. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 3.2 or Title 4.1.

"DEA" means the Drug Enforcement Administration, United States Department of Justice, or its successor agency.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated by this chapter, whether or not there exists an agency relationship.

"Device" means instruments, apparatus, and contrivances, including their components, parts and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals or to affect the structure or any function of the body of man or animals.

"Dialysis care technician" or "dialysis patient care technician" means an individual who is certified by an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.) and who, under the supervision of a licensed physician, nurse practitioner, physician assistant or a registered nurse, assists in the care of patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility.

"Dialysis solution" means either the commercially available, unopened, sterile solutions whose purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal dialysis, or commercially available solutions whose purpose is to be used in the performance of hemodialysis not to include any solutions administered to the patient intravenously.

"Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling or compounding necessary to prepare the substance for that delivery. However, dispensing shall not include the transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites operated by such practitioner or that practitioner's medical practice for the purpose of administration of such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For practitioners of medicine or osteopathy, "dispense" shall only include the provision of drugs by a practitioner to patients to take with them away from the practitioner's place of practice.

"Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled substance.

"Distributor" means a person who distributes.

"Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect the structure or any function of the body of man or animals; or (iv) articles or substances intended for use as a component of any article specified in clause (i), (ii) or (iii). "Drug" does not include devices or their components, parts or accessories.

"Drug product" means a specific drug in dosage form from a known source of manufacture, whether by brand or therapeutically equivalent drug product name.

"Electronic transmission prescription" means any prescription, other than an oral or written prescription or a prescription transmitted by facsimile machine, that is electronically transmitted directly to a pharmacy without interception or intervention from a third party from a practitioner authorized to prescribe or from one pharmacy to another pharmacy.

"Facsimile (FAX) prescription" means a written prescription or order, which is transmitted by an electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy form.

"FDA" means the United States Food and Drug Administration.

"Hashish oil" means any oily extract containing one or more cannabinoids, but shall not include any such extract with a tetrahydrocannabinol content of less than 12 percent by weight.

"Immediate precursor" means a substance which the Board of Pharmacy has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

"Label" means a display of written, printed or graphic matter upon the immediate container of any article. A requirement made by or under authority of this chapter that any word, statement or other information appear on the label shall not be considered to be complied with unless such word, statement or other information also appears on the outside container or wrapper, if any, of the retail package of such article, or is easily legible through the outside container or wrapper.

"Labeling" means all labels and other written, printed or graphic matter on an article or any of its containers or wrappers, or accompanying such article.

"Manufacture" means the production, preparation, propagation, conversion or processing of any item regulated by this chapter, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include compounding.

"Manufacturer" means every person who manufactures.

"Marijuana" means any part of a plant of the genus *Cannabis* whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or its resin. Marijuana shall not include any oily extract containing one or more cannabinoids unless such extract contains less than 12 percent of tetrahydrocannabinol by weight, nor shall marijuana include the mature stalks of such plant, fiber produced from such stalk, oil or cake made from the seeds of such plant, unless such stalks, fiber, oil or cake is combined with other parts of plants of the genus *Cannabis*.

"Medical equipment supplier" means any person, as defined in § 1-230, engaged in the delivery to the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and needles, medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with no medicinal properties which are used for the operation and cleaning of medical equipment and solutions for peritoneal dialysis.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative, or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (i), but not including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extraction of coca leaves which do not contain cocaine or ecgonine.

"New drug" means: (i) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling, except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use; or (ii) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such

conditions.

"Nuclear medicine technologist" means an individual who holds a current certification with the American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification Board.

"Official compendium" means the official United States Pharmacopoeia National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

"Official written order" means an order written on a form provided for that purpose by the United States Drug Enforcement Administration, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided then on an official form provided for that purpose by the Board of Pharmacy.

"Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under Article 4 (§ 54.1-3437 et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof.

"Original package" means the unbroken container or wrapping in which any drug or medicine is enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor for use in the delivery or display of such article.

"Person" means both the plural and singular, as the case demands, and includes an individual, partnership, corporation, association, governmental agency, trust, or other institution or entity.

"Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application for a pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in a manner complying with the laws and regulations for the practice of pharmacy and the sale and dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy and the pharmacy's personnel as required by § 54.1-3432.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, licensed nurse practitioner pursuant to § 54.1-2957.01, licensed physician assistant pursuant to § 54.1-2952.1, pharmacist pursuant to § 54.1-3300, TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32, veterinarian, scientific investigator, or other person licensed, registered or otherwise permitted to distribute, dispense, prescribe and administer, or conduct research with respect to, a controlled substance in the course of professional practice or research in the Commonwealth.

"Prescriber" means a practitioner who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription.

"Prescription" means an order for drugs or medical supplies, written or signed or transmitted by word of mouth, telephone, telegraph or other means of communication to a pharmacist by a duly licensed physician, dentist, veterinarian or other practitioner, authorized by law to prescribe and administer such drugs or medical supplies.

"Prescription drug" means any drug required by federal law or regulation to be dispensed only pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503 (b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353 (b)).

"Production" or "produce" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance or marijuana.

"Proprietary medicine" means a completely compounded nonprescription drug in its unbroken, original package

which does not contain any controlled substance or marijuana as defined in this chapter and is not in itself poisonous, and which is sold, offered, promoted or advertised directly to the general public by or under the authority of the manufacturer or primary distributor, under a trademark, trade name or other trade symbol privately owned, and the labeling of which conforms to the requirements of this chapter and applicable federal law. However, this definition shall not include a drug which is only advertised or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic, a drug which may be dispensed only upon prescription or the label of which bears substantially the statement "Warning - may be habit-forming," or a drug intended for injection.

"Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or radionuclide generator that is intended to be used in the preparation of any such substance, but does not include drugs such as carbon-containing compounds or potassium-containing salts that include trace quantities of naturally occurring radionuclides. The term also includes any biological product that is labeled with a radionuclide or intended solely to be labeled with a radionuclide.

"Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as an individual, proprietor, agent, servant or employee.

"Therapeutically equivalent drug products" means drug products that contain the same active ingredients and are identical in strength or concentration, dosage form, and route of administration and that are classified as being therapeutically equivalent by the United States Food and Drug Administration pursuant to the definition of "therapeutically equivalent drug products" set forth in the most recent edition of the Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as the "Orange Book."

"USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

"Warehouser" means any person, other than a wholesale distributor, engaged in the business of selling or otherwise distributing prescription drugs or devices to any person who is not the ultimate user or consumer. No person shall be subject to any state or local tax by reason of this definition.

"Wholesale distribution" means distribution of prescription drugs to persons other than consumers or patients, subject to the exceptions set forth in § [54.1-3401.1](#).

"Wholesale distributor" means any person engaged in wholesale distribution of prescription drugs including, but not limited to, manufacturers; repackers; own-label distributors; private-label distributors; jobbers; brokers; warehouses, including manufacturers' and distributors' warehouses, chain drug warehouses conducting wholesale distributions, and wholesale drug warehouses; independent wholesale drug traders; and retail pharmacies conducting wholesale distributions. No person shall be subject to any state or local tax as a wholesale merchant by reason of this definition.

The words "drugs" and "devices" as used in Chapter 33 (§ [54.1-3300](#) et seq.) and in this chapter shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus or glasses or lenses for the eyes.

The terms "pharmacist," "pharmacy" and "practice of pharmacy" as used in this chapter shall be defined as provided in Chapter 33 (§ [54.1-3300](#) et seq.) unless the context requires a different meaning.

(Code 1950, §§ 54-399, 54-487; 1952, c. 451; 1958, c. 551, § 54-524.2; 1966, c. 193; 1968, c. 582; 1970, c. 650; 1971, Ex. Sess., c. 94; 1972, c. 798; 1975, c. 425; 1976, c. 14; 1977, c. 193; 1978, c. 833; 1979, c. 435; 1980, c. 150; 1988, c. 765; 1991, cc. 519, 524; 1992, cc. 737, 793; 1996, cc. [37](#), [152](#), [158](#), [407](#), [408](#); 1997, cc. 20, 677, 806; 1998, c. 470; 1999, cc. [661](#), [750](#); 2000, cc. [861](#), [878](#), [935](#); 2003, cc. [509](#), [639](#), [995](#); 2005, cc. [475](#), [839](#); 2006, c. [346](#); 2012, c. 213.)

§ 54.1-3446. Schedule I.

The controlled substances listed in this section are included in Schedule I:

1. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

Acetylmethadol;

Allylprodine;

Alphacetylmethadol (except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);

Alphameprodine;

Alphamethadol;

Benzethidine;

Betacetylmethadol;

Betameprodine;

Betamethadol;

Betaprodine;

Clonitazene;

Dextromoramide;

Diampromide;

Diethylthiambutene;

Difenoxin;

Dimenoxadol;

Dimepheptanol;

Dimethylthiambutene;

Dioxaphetylbutyrate;

Dipipanone;

Ethylmethylthiambutene;

Etonitazene;

Etoxadine;

Furethidine;

Hydroxypethidine;

Ketobemidone;

Levomoramide;

Levophenacymorphan;

Morpheridine;

Noracymethadol;

Norlevorphanol;

Normethadone;

Norpipanone;

Phenadoxone;

Phenampromide;

Phenomorphane;

Phenoperidine;

Piritramide;

Proheptazine;

Properidine;

Propiram;

Racemoramide;

Tilidine;

Trimeperidine.

2. Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

Acetorphine;

Acetyldihydrocodeine;

Benzylmorphine;

Codeine methylbromide;

Codeine-N-Oxide;

Cyprenorphine;

Desomorphine;

Dihydromorphine;

Drotebanol;

Etorphine;

Heroin;

Hydromorphenol;

Methyldesorphine;

Methyldihydromorphine;

Morphine methylbromide;

Morphine methylsulfonate;

Morphine-N-Oxide;

Myrophine;

Nicocodeine;

Nicomorphine;

Normorphine;

Pholcodine;

Thebacon.

3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only, the term "isomer" includes the optical, position, and geometric isomers):

Alpha-ethyltryptamine (some trade or other names: Monase;a-ethyl-1H-indole-3-ethanamine; 3-2-aminobutyl] indole; a-ET; AET);

4-Bromo-2,5-dimethoxyphenethylamine (some trade or other names: 2-4-bromo-2,5-dimethoxyphenyl]-1-aminoethane;alpha-desmethyl DOB;2C-B; Nexus);

3,4-methylenedioxy amphetamine;

5-methoxy-3,4-methylenedioxy amphetamine;

3,4,5-trimethoxy amphetamine;

Alpha-methyltryptamine (other name: AMT);

Bufotenine;

Diethyltryptamine;

Dimethyltryptamine;

4-methyl-2,5-dimethoxyamphetamine;

2,5-dimethoxy-4-ethylamphetamine (DOET);

2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);

Ibogaine;

5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT);

Lysergic acid diethylamide;

Mescaline;

Parahexyl (some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo -b,d]pyran; Synhexyl);

Peyote;

N-ethyl-3-piperidyl benzilate;

N-methyl-3-piperidyl benzilate;

Psilocybin;

Psilocyn;

Salvinorin A;

Tetrahydrocannabinols, except as present in marijuana and dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration;

Hashish oil (some trade or other names: hash oil; liquid marijuana; liquid hashish);

2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA);

3,4-methylenedioxymethamphetamine (MDMA), its optical, positional and geometric isomers, salts and salts of isomers;

3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA, MDE, MDEA);

N-hydroxy-3,4-methylenedioxyamphetamine (some other names: N-hydroxy-alpha-methyl-3,4(methylenedioxy) phenethylamine, and N-hydroxy MDA);

4-bromo-2,5-dimethoxyamphetamine (some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA);

4-methoxyamphetamine (some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine; PMA);

Ethylamine analog of phencyclidine (some other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);

Pyrrolidine analog of phencyclidine (some other names: 1-(1-phenylcyclohexyl) -pyrrolidine, PCPy, PHP);

Thiophene analog of phencyclidine (some other names: 1-1-(2-thienyl) -cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP);

1-1-(2-thienyl)cyclohexyl]pyrrolidine (other name: TCPy);

3,4-methylenedioxypyrovalerone (other name: MDPV);

4-methylmethcathinone (other names: mephedrone, 4-MMC);

3,4-methylenedioxymethcathinone (other name: methylone);

Naphthylpyrovalerone (other name: naphyrone);

4-fluoromethcathinone (other name: flephedrone, 4-FMC);

4-methoxymethcathinone (other names: methedrone; bk-PMMA);

Ethcathinone (other name: N-ethylcathinone);

3,4-methylenedioxyethcathinone (other name: ethylone);

Beta-keto-N-methyl-3,4-benzodioxolylbutanamine (other name: butylone);

N,N-dimethylcathinone (other name: metamfepramone);

Alpha-pyrrolidinopropiophenone (other name: alpha-PPP);

4-methoxy-alpha-pyrrolidinopropiophenone (other name: MOPPP);

3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (other name: MDPPP);

Alpha-pyrrolidinovalerophenone (other name: alpha-PVP);

6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (other name: MDAI);

3-fluoromethcathinone (other name: 3-FMC)

4-Ethyl-2,5-dimethoxyphenethylamine (other name: 2C-E);

4-Iodo-2,5-dimethoxyphenethylamine (other name: 2C-I);

4-Methylethcathinone (other name: 4-MEC);

4-Ethylmethcathinone (other name: 4-EMC);

N,N-diallyl-5-methoxytryptamine (other name: 5-MeO-DALT);

Beta-keto-methylbenzodioxolylpentanamine (other name: Pentyllone, bk-MBDP);

Alpha-methylamino-butyrophenone (other name: Buphedrone);

Alpha-methylamino-valerophenone (other name: Pentedrone);

3,4-Dimethylmethcathinone (other name: 3,4-DMMC);

4-methyl-alpha-pyrrolidinopropiophenone (other name: MPPP);

4-Iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 25-I, 25I-NBOMe);

Methoxetamine (other names: MXE, 3-MeO-2-Oxo-PCE);

4-Fluoromethamphetamine (other name: 4-FMA);

4-Fluoroamphetamine (other name: 4-FA).

4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

Gamma hydroxybutyric acid (some other names include GHB; gamma hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);

Mecloqualone;

Methaqualone.

5. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

Aminorex (some trade or other names; aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4, 5-dihydro-5-phenyl-2-oxazolamine);

N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);

Fenethylamine;

Ethylamphetamine;

Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, norephedrone), and any plant material from which Cathinone may be derived;

Methcathinone (some other names: 2-(methylamino)-propiophenone; alpha-(methylamino) propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR 1432);

Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

N,N-dimethylamphetamine (other names: N,N-alpha-trimethyl-benzeneethanamine, N,N-alpha-trimethylphenethylamine).

6. Any material, compound, mixture or preparation containing any quantity of the following substances:

N-3-methyl-1-(2-phenethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-methylfentanyl), its optical and geometric isomers, salts, and salts of isomers;

1-methyl-4-phenyl-4-propionoxypiperidine (other name: MPPP), its optical isomers, salts and salts of isomers;

1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (other name: PEPAP), its optical isomers, salts and salts of isomers;

N-1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide (other names: 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine), alpha-methylfentanyl);

N-1-(1-methyl-2-phenethyl)-4-piperidyl]-N-phenylacetamide (other name: acetyl-alpha-methylfentanyl), its optical isomers, salts and salts of isomers;

N-1-(1-methyl-2-2-thienyl)ethyl-4 piperidyl]-N-phenylpropanamide (other name: alpha-methylthiofentanyl), its optical isomers, salts and salts of isomers;

N-1-benzyl-4-piperidyl]N-phenylpropanamide (other name: benzylfentanyl), its optical isomers, salts and salts of isomers;

N-1-(2-hydroxy-2-phenyl) ethyl-4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxyfentanyl), its optical isomers, salts and salts of isomers;

N-3-methyl-1-(2-hydroxy-2-phenethyl)4-piperidyl]Nphenylpropanam ide (other name: betahydroxy3methylfentanyl), its optical and geometric isomers, salts and salts of isomers;

N-(3-methyl-1-(2-thienyl)ethyl-4-piperidiny] -N-phenylpropanami de (other name: 3-methylthiofentanyl), its optical and geometric isomers, salts and salts of isomers;

N-1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (other name: thenylfentanyl), its optical isomers, salts and salts of isomers;

N-phenyl-N-1-(2-thienyl)ethyl-4-piperidiny]-propanamide (other name: thiofentanyl), its optical isomers, salts and salts of isomers;

N-(4-fluorophenyl)-N-1-(2-phenethyl)-4-piperidiny] propanamide (other name: para-fluorofentanyl), its optical isomers, salts and salts of isomers.

(1972, c. 798, § 54-524.84:4; 1973, c. 479; 1976, c. 614; 1977, c. 302; 1979, cc. 387, 435; 1982, c. 505; 1984, cc. 186, 192; 1986, c. 463; 1988, c. 765; 1994, c. 763; 1996, c. 408; 1997, c. 594; 1999, c. 722; 2000, c. 348; 2005, c. 119; 2008, c. 59; 2011, cc. 384, 410; 2012, cc. 762, 816.)

1-androstenediol (3beta,17beta-dihydroxy-5alpha-androst-1-ene);

1-androstenediol (3alpha,17beta-dihydroxy-5alpha-androst-1-ene);

4-androstenediol (3beta,17beta-dihydroxy-androst-4-ene);

5-androstenediol (3beta,17beta-dihydroxy-androst-5-ene);

1-androstenedione ([5alpha]-androst-1-en-3,17-dione);

4-androstenedione (androst-4-en-3,17-dione);

5-androstenedione (androst-5-en-3,17-dione);

Bolasterone (7alpha,17alpha-dimethyl-17beta-hydroxyandrost-4-en-3-one);

Boldenone (Dehydrotestosterone) (17beta-hydroxyandrost-1,4,-diene-3-one);

Boldione (androsta-1, 4-diene-3, 17-dione);

Calusterone (7beta,17alpha-dimethyl-17beta-hydroxyandrost-4-en-3-one);

Clostebol (4-Chlorotestosterone) (Chlorotestosterone) (4-chloro-17beta-hydroxyandrost-4-en-3-one);

Dehydrochloromethyltestosterone (4-chloro-17beta-hydroxy-17alpha-methyl-androst-1,4-dien-3-one);

Delta1-dihydrotestosterone (1-testosterone) (17beta-hydroxy-5alpha-androst-1-en-3-one);

Desoxymethyltestosterone (madol) (17alpha-methyl-5alpha-androst-2-en-17beta-ol);

Dromostanolone (Drostanolone) (17beta-hydroxy-2alpha-methyl-5alpha-androstan-3-one);

Ethylestrenol (17alpha-ethyl-17beta-hydroxyestr-4-ene);

Fluoxymesterone (9-fluoro-17alpha-methyl-11beta,17beta-dihydroxyandrost-4-en-3-one);

Formyldienolone (Formebolone) (2-formyl-17alpha-methyl-11alpha,17beta-dihydroxyandrost-1,4-dien-3-one);

Furazabol (17alpha-methyl-17beta-hydroxyandrostano[2,3-c]-furazan);

13-beta-ethyl-17alpha-hydroxygon-4-en-3-one;

4-hydroxytestosterone (4,17beta-dihydroxy-androst-4-en-3-one);

4-hydroxy-19-nortestosterone (4,17beta-dihydroxy-estr-4-en-3-one);

Mestanolone (17alpha-methyl-17beta-hydroxy-5-androstan-3-one);

Mesterolone (1alpha-methyl-17beta-hydroxy-[5alpha]-androstan-3-one);

Methandriol (methylandrostenediol) (17alpha-methyl-3beta,17beta-dihydroxyandrost-5-ene);

Methandrostenolone (Methandienone) (Dehydromethyltestosterone) (17alpha-methyl-17beta-hydroxyandrost-1,4-dien-3-one);

Methenolone (1-methyl-17beta-hydroxy-5alpha-androst-1-en-3-one);

17alpha-methyl-3beta,17beta-dihydroxy-5a-androstane;

17alpha-methyl-3alpha,17beta-dihydroxy-5a-androstane;

17alpha-methyl-3beta,17beta-dihydroxyandrost-4-ene);

17alpha-methyl-4-hydroxynandrolone (17alpha-methyl-4-hydroxy-17beta-hydroxyestr-4-en-3-one);

Methyldienolone (17alpha-methyl-17beta-hydroxyestra-4,9(10)-dien-3-one);

Methyltrienolone (17alpha-methyl-17beta-hydroxyestra-4,9-11-trien-3-one);

17-Methyltestosterone (Methyltestosterone) (17alpha-methyl-17beta-hydroxyandrost-4-en-3-one);

Mibolerone (7alpha,17alpha-dimethyl-17beta-hydroxyestr-4-en-3-one);

17alpha-methyl-delta1-dihydrotestosterone (17beta-hydroxy-17alpha-methyl-5alpha-androst-1-en-3-one) (17-alpha-methyl-1-testosterone);

Nandrolone (19-Nortestosterone) (17beta-hydroxyestr-4-en-3-one);

19-nor-4, 9(10)-androstadienedione (estra-4,9(10)-diene-3,17-dione);

19-nor-4-androstenediol (3beta,17beta-dihydroxyestr-4-ene);

19-nor-4-androstenediol (3alpha,17beta-dihydroxyestr-4-ene);

19-nor-5-androstenediol (3beta,17beta-dihydroxyestr-5-ene);

19-nor-5-androstenediol (3alpha,17beta-dihydroxyestr-5-ene);

19-nor-4-androstenedione (estr-4-en-3,17-dione);

19-nor-5-androstenedione (estr-5-en-3,17-dione);

Norbolethone (13beta,17alpha-diethyl-17beta-hydroxygon-4-en-3-one);

Norclostebol (4-chloro-17beta-hydroxyestr-4-en-3-one);

Norethandrolone (17alpha-ethyl-17beta-hydroxyestr-4-en-3-one);

Normethandrolone (17alpha-methyl-17beta-hydroxyestr-4-en-3-one);

Oxandrolone (17alpha-methyl-17beta-hydroxy-2-oxa-[5alpha]-androstan-3-one);

Oxymesterone (Oxymestron) (17alpha-methyl-4,17beta-dihydroxyandrost-4-en-3-one);

Oxymetholone (Anasterone) (17alpha-methyl-2-hydroxymethylene-17beta-hydroxy-[5alpha]-androstan-3-one);

Stanolone (4-Dihydrotestosterone) (Dihydrotestosterone) (17beta-hydroxy-androstan-3-one);

Stanozolol (Androstanazole) (17alpha-methyl-17beta-hydroxy-[5alpha]-androst-2-eno[3,2-c]-pyrazole);

Stenbolone (17beta-hydroxy-2-methyl-[5alpha]-androst-1-en-3-one);

Testolactone (1-Dehydrotestololactone) (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);

Testosterone (17beta-hydroxandrost-4-en-3-one);

Tetrahydrogestrinone (13beta,17alpha-diethyl-17beta-hydroxygon-4,9,11-trien-3-one);

Trenbolone (Trienbolone) (Trienolone) (17beta-hydroxyestr-4,9,11-trien-3-one); and

Any salt, ester, or ether of a drug or substance described or listed in this paragraph. However, such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the United States Secretary of Health and Human Services for such administration. If any person prescribes, dispenses, or distributes any such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this subsection.

7. Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration.

(1972, c. 798, § 54-524.84:8; 1976, c. 614; 1977, c. 302; 1979, c. 387; 1982, c. 505; 1988, cc. 283, 765; 1992, c. 737; 2000, cc. 135, 348; 2003, c. 640; 2005, c. 119; 2006, c. 346; 2007, c. 14; 2010, c. 423.)

§ 54.1-3448. Schedule II.

The controlled substances listed in this section are included in Schedule II:

1. Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrophan, nalbuphine, nalmeferine, naloxone naltrexone and their respective salts, but including the following:

Raw opium;

Opium extracts;

Opium fluid extracts;

Powdered opium;

Granulated opium;

Tincture of opium;

Codeine;

Dihydroetorphine;

Ethylmorphine;

Etorphine hydrochloride;

Hydrocodone;

Hydromorphone;

Metopon;

Oripavine (3-O-demethylthebaine or 6,7,8,14-tetradecahydro-4,

5- α -epoxy-6-methoxy-17-methylmorphinan-3-ol);

Morphine;

Oxycodone;

Oxymorphone;

Thebaine.

Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in this subdivision, but not including the isoquinoline alkaloids of opium.

Opium poppy and poppy straw.

Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine; cocaine or any salt or isomer thereof.

Concentrate of poppy straw, the crude extract of poppy straw in either liquid, solid or powder form, which contains the phenanthrene alkaloids of the opium poppy.

2. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

Alfentanil;

Alphaprodine;

Anileridine;

Bezitramide;

Bulk dextropropoxyphene (nondosage forms);

Carfentanil;

Dihydrocodeine;

Diphenoxylate;

Fentanyl;

Isomethadone;

Levo-alpha-acetylmethadol (levo-alpha-acetylmethadol) (levomethadyl acetate) (LAAM);

Levomethorphan;

Levorphanol;

Metazocine;

Methadone;

Methadone - Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;

Moramide - Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;

Pethidine (other name: meperidine);

Pethidine - Intermediate - A, 4-cyano-1-methyl-4-phenylpiperidine;

Pethidine - Intermediate - B, ethyl-4-phenylpiperidine-4-carboxylate;

Pethidine - Intermediate - C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;

Phenazocine;

Piminodine;

Racemethorphan;

Racemorphan;

Remifentanyl;

Sufentanyl;

Tapentadol.

3. Any material, compound, mixture or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

Amphetamine, its salts, optical isomers, and salts of its optical isomers;

Phenmetrazine and its salts;

Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers;

Methylphenidate;

Lisdexamfetamine, its salts, isomers, and salts of its isomers.

4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

Amobarbital;

Glutethimide;

Secobarbital;

Pentobarbital;

Phencyclidine.

5. The following hallucinogenic substance:

Nabilone.

6. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances which are:

a. Immediate precursors to amphetamine and methamphetamine:

Phenylacetone.

b. Immediate precursor to phencyclidine:

1-phenylcyclohexylamine;

1-piperidinocyclohexanecarbonitrile (other name: PCC).

c. Immediate precursor to fentanyl:

4-anilino-N-phenethyl-4-piperidine (ANPP).

(1972, c. 798, § 54-524.84:6; 1976, c. 614; 1977, c. 302; 1978, c. 833; 1979, c. 387; 1981, c. 30; 1984, c. 192; 1986, c. 463; 1988, cc. 283, 765; 1992, c. 737; 1994, c. 763; 1998, c. 105; 2000, c. 135; 2005, c. 119; 2008, c. 74; 2010, c. 423; 2011, c. 700.)

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§ 54.1-3450. Schedule III.

The controlled substances listed in this section are included in Schedule III:

1. Unless specifically exempted or listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules;

Any compound, mixture or preparation containing amobarbital, secobarbital, or pentobarbital or any salt of amobarbital, secobarbital, or pentobarbital and one or more other active medicinal ingredients which are not listed in Schedules II through V;

Any suppository dosage form containing amobarbital, secobarbital, or pentobarbital or any salt of amobarbital, secobarbital, or pentobarbital and approved by the Food and Drug Administration for marketing only as a suppository;

Chlorhexadol;

Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355);

Embutramide;

Ketamine, its salts, isomers, and salts of isomers (some other names: [+-] -2-[2-chlorophenyl]-2-[methylamino]-cyclohexanone);

Lysergic acid;

Lysergic acid amide;

Methypylon;

Sulfondiethylmethane;

Sulfonethylmethane;

Sulfonmethane; and

Tiletamine - zolazepam combination product or any salt thereof.

2. Nalorphine.

3. Unless specifically excepted or unless listed in another schedule:

a. Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts thereof:

Buprenorphine.

b. Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

Not more than 300 milligrams of dihydrocodeinone (hydrocodone), or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

Not more than 300 milligrams of dihydrocodeinone (hydrocodone), or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

Not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts;

Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

Benzphetamine;

Chlorphentermine;

Clortermine;

Phendimetrazine.

5. The Board may except by regulation any compound, mixture, or preparation containing any stimulation or depressant substance listed in subsection A from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

6. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts of isomers is possible within the specific chemical designation:

Anabolic steroids, including, but not limited to:

3beta,17-dihydroxy-5a-androstane;

3alpha,17beta-dihydroxy-5a-androstane;

5alpha-androstan-3,17-dione;

§ 54.1-3452. Schedule IV.

The controlled substances listed in this section are included in Schedule IV unless specifically excepted or listed in another schedule:

1. Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

Alprazolam;

Barbital;

Bromazepam;

Camazepam;

Carisoprodol;

Chloral betaine;

Chloral hydrate;

Chlordiazepoxide;

Clobazam;

Clonazepam;

Clorazepate;

Clotiazepam;

Cloxazolam;

Delorazepam;

Diazepam;

Dichloralphenazone;

Estazolam;

Ethchlorvynol;

Ethinamate;

Ethyl loflazepate;

Fludiazepam;

Flunitrazepam;

Flurazepam;

Fospropofol;

Halazepam;

Haloxazolam;

Ketazolam;

Loprazolam;

Lorazepam;

Lormetazepam;

Mebutamate;

Medazepam;

Methohexital;

Meprobamate;

Methylphenobarbital;

Midazolam;

Nimetazepam;

Nitrazepam;

Nordiazepam;

Oxazepam;

Oxazolam;

Paraldehyde;

Petrichloral;

Phenobarbital;

Pinazepam;

Prazepam;

Quazepam;

Temazepam;

Tetrazepam;

Triazolam;

Zaleplon;

Zolpidem;

Zopiclone.

2. Any compound, mixture or preparation which contains any quantity of the following substances including any salts or isomers thereof:

Fenfluramine.

3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

Cathine (+)-norpseudoephedrine;

Diethylpropion;

Fencamfamin;

Fenproporex;

Mazindol;

Mefenorex;

Modafinil;

Phentermine;

Pemoline (including organometallic complexes and chelates thereof);

Pipradrol;

Sibutramine;

SPA (-)-1-dimethylamino-1, 2-diphenylethane.

4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxy butane);

Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

5. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including their salts:

Butorphanol (including its optical isomers);

Pentazocine.

6. The Board may except by regulation any compound, mixture, or preparation containing any depressant substance listed in subdivision 1 from the application of all or any part of this chapter if the compound, mixture, or preparation

contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

(1972, c. 798, § 54-524.84:10; 1976, c. 614; 1977, c. 302; 1978, c. 705; 1979, c. 387; 1982, c. 505; 1986, c. 463; 1988, cc. 283, 765; 1992, c. 737; 1994, c. 763; 1998, c. 105; 1999, c. 605; 2000, c. 135; 2003, c. 640; 2006, c. 346; 2010, c. 423; 2012, c. 540.)

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§ 54.1-3454. Schedule V.

The controlled substances listed in this section are included in Schedule V:

1. Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams;

Not more than 100 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams;

Not more than 100 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or per 100 grams;

Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

The Board may except by regulation any compound, mixture, or preparation containing any depressant substance listed in subdivision 1 from the application of all or any part of this chapter and such substances so excepted may be dispensed pursuant to § 54.1-3416.

2. Unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

Pyrovalerone.

3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

Ezogabine [N-[2-amino-4-(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester]-2779;

Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide];

Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid].

(1972, c. 798, § 54-524.84:12; 1976, c. 614; 1977, c. 302; 1979, c. 387; 1984, c. 186; 1986, c. 463; 1988, c. 765; 1992, c. 737; 1994, c. 763; 2003, c. 640; 2006, c. 346; 2010, c. 423; 2012, c. 541.)

§ 54.1-3455. Schedule VI.

The following classes of drugs and devices shall be controlled by Schedule VI:

1. Any compound, mixture, or preparation containing any stimulant or depressant drug exempted from Schedules III, IV or V and designated by the Board as subject to this section.
2. Every drug, not included in Schedules I, II, III, IV or V, or device, which because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not generally recognized among experts qualified by scientific training and experience to evaluate its safety and efficacy as safe for use except by or under the supervision of a practitioner licensed to prescribe or administer such drug or device.
3. Any drug, not included in Schedules I, II, III, IV or V, required by federal law to bear on its label prior to dispensing, at a minimum, the symbol "Rx only," or which bears the legend "Caution: Federal Law Prohibits Dispensing Without Prescription" or "Caution: Federal Law Restricts This Drug To Use By Or On The Order Of A Veterinarian" or any device which bears the legend "Caution: Federal Law Restricts This Device To Sales By Or On The Order Of A _____." (The blank should be completed with the word "Physician," "Dentist," "Veterinarian," or with the professional designation of any other practitioner licensed to use or order such device.)

(1972, c. 798, § 54-524.84:13; 1976, c. 614; 1977, c. 302; 1988, c. 765; 1999, c. 605.)

§ 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, (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 to operate in its current location as a facility to provide treatment for persons with opiate addiction through the use of methadone or other opioid replacements when the facility is located within one-half mile of a public or private licensed day care center or a public or private K-12 school in Henrico County, the City of Newport News, or the City of Richmond and has been licensed and operated as a facility to provide treatment for persons with opiate addiction through the use of methadone or other opioid replacements by another provider immediately prior to submission of the application for a license.

December 3, 2019

VIA HAND DELIVERY

Roy Benbow, Secretary
Board of Zoning Appeals
900 E. Broad St., Room 110
Richmond, Virginia 23219

Re: Appeal of Decision of Zoning Administrator

Dear Mr. Benbow and Members of the Board:

Our firm is pleased and proud to represent the appellant, Metro Treatment of Virginia, L.P., a subsidiary of Colonial Management, L.P. (collectively, "CMG"). CMG operates three methadone treatment clinics within the Commonwealth, including an existing clinic within the City of Richmond. CMG intends to open a new methadone treatment clinic as a potential tenant of property located at 449-A Belt Boulevard (the "Property"). CMG appeals the decision of the Zoning Administrator dated November 7, 2019 (the "Determination")¹, in which the Zoning Administrator determined that CMG's proposed use of the Property was not permitted within the M-1 District because it did not qualify as a "medical or dental office or clinic," based on a "long-standing determination of this office that the use does not encompass the treatment of controlled substances, which is a use not defined within the zoning ordinance and is not permitted in this district."

For the reasons set forth below, the Zoning Administrator's interpretation of the Zoning Ordinance as applied to CMG is erroneous. CMG's treatment clinics are medical clinics. To the extent the Zoning Administrator's ruling is based upon an unofficial policy of the City that methadone treatment clinics do not qualify as medical clinics, that unofficial policy violates Title II of the Americans with Disabilities Act by discriminating against a particular type of medical clinic on the basis of its association with persons with a particular disability. The City cannot and should not rely on an unwritten policy that violates federal law. Instead, the Board should sustain CMG's appeal, reverse the Determination, and confirm that CMG's proposed medical clinic is a permitted use of the Property.

I. Applicable Provisions of the Zoning Ordinance

The Property is zoned M-1 (Light Industrial), which is governed by Section 30-452.1 of the Ordinance. In turn, Section 452.1 incorporates by reference all permitted uses listed in Section 30-438.1, which governs B-3 (General Business District) zoning.

¹ A copy of the Determination is attached hereto as Exhibit A.

Among the principal uses permitted in Section 30-438.1 (and, therefore, within M-1 districts) are "(30) Offices, including . . . medical and dental offices and clinics"

The terms "medical" and "office" are not defined in the Ordinance. However, Section 30-1220.21 of the Ordinance defines "clinic" as "a facility providing health services for persons on an outpatient basis and where no patients are lodged overnight."

II. CMG's Existing Medical Clinic in the City and the Proposed Belt Boulevard Clinic

Since 1986, CMG and its subsidiaries have operated medical clinics around the country to treat addiction.² Presently, CMG operates more than 70 addiction treatment clinics in more than 20 states nationwide. Among those are three clinics within the Commonwealth.

Since 2013, CMG has operated an outpatient treatment clinic at 2217 East Franklin Street. CMG desires to open an additional clinic within the City of Richmond in order to serve a population with great need of addiction treatment in a manner that offers additional geographic convenience to patients in and around Richmond. CMG has identified the Property as the proposed location of its new treatment clinic.

CMG's Belt Boulevard clinic will provide the same services in the same manner as CMG has provided at the East Franklin Street clinic since 2013. These services are inescapably medical in nature.

Medical Disease. CMG's clinics treat Opioid Use Disorder ("OUD"). OUD is a medical disease, a mental health disorder recognized in the DSM-V,³ which is the industry-accepted catalog of recognized mental health disorders published by the American Psychiatric Association. Diagnoses of OUD are contained within the medical industry standards known as ICD-10-CM,⁴ promulgated by the World Health Organization and adapted for use by the federal Centers for Medicare and Medicaid Services ("CMS"). The ICD-10-CM contains codes for diagnoses of OUD that vary according to severity.⁵

² Attached hereto as Exhibit B is the Affidavit of James Horwitz. Mr. Horwitz is CMG's Vice President of Business Development. In that role, he oversees the establishment and opening of new clinics like the Belt Boulevard clinic.

³ *Diagnostic & Statistical Manual of Mental Disorders* (5th ed. 2013). An excerpt from the DSM-V pertaining to OUD is attached hereto as Exhibit C.

⁴ *International Classification of Diseases, 10th rev., Clinical Modification*.

⁵ See American Psychiatric Association, Coding Updates (<https://www.psychiatry.org/psychiatrists/practice/dsm/updates-to-dsm-5/coding-updates/as-ordered-in-the-icd-10-cm-classification>), attached hereto as Exhibit D.

Medical Services. CMG's treatment clinics offer a combination of methadone – a prescription medication – and behavioral therapy. This is classified by the federal government as a form of "Medication-Assisted Treatment" or "MAT."⁶

Methadone is a synthetic narcotic that helps curb cravings and opiate withdrawal symptoms. MAT including methadone is recognized as an evidence-based, effective treatment for recovering opioid addicts, and is the recommended treatment for patients who were long-time or intravenous drug users. Methadone is provided as part of this therapy under medical supervision. Dosages are strictly controlled. A Virginia-licensed nurse administers an oral dose of methadone directly to the patient, who must swallow the dose in front of the nurse, then speak to the nurse after swallowing to verify that the patient is not holding the medication in his or her mouth.

The behavioral health counseling component of MAT at CMG's clinics involves face-to-face counseling sessions at least every two weeks during the first year of treatment, comprising a minimum of two hours per month. After the first year of treatment, CMG's patients must receive face-to-face counseling at least monthly, though an individual patient may be required to attend more frequently as determined by treatment staff. CMG's clinics offer individual, group, and family counseling services that are individualized according to a particular patient's treatment plan.

CMG's East Franklin Street Clinic employs a program director, a treatment services coordinator, a mental health professional who serves as a licensed supervisor, multiple mental and behavioral health counselors, multiple nurses, a licensed pharmacist who serves as the clinic's Pharmacist in Charge under state law, and a physician who serves as the clinic's Medical Director. CMG anticipates similar staffing for the Belt Boulevard clinic.

CMG's treatment clinics bill for these services as medical services using industry standard guidelines. Methadone treatment has its own billing code within the Healthcare Common Procedure Coding System ("HCPCS"), which is published and maintained by the American Medical Association. That code is H0020.

Medical Regulation. CMG's clinics are regulated as medical clinics at the federal and state levels. CMG's Virginia clinics are certified as an opioid treatment program by the U.S. Department of Health and Human Services Substance Abuse and Mental Health Administration ("SAMHSA"). CMG's Virginia clinics have a Controlled Substance Registration certificate from the U.S. Department of Justice, Drug Enforcement Administration ("DEA"). CMG's Virginia clinics are regulated at the state level by the Virginia Department of Behavioral Health and Developmental Services ("DBHDS") and house and operate pharmacies regulated by the Department of Health Professions and its Board of Pharmacy.

⁶ A copy of the Substance Abuse and Mental Health Services Administration web page describing Medication-Assisted Treatment in more detail (<https://www.samhsa.gov/medication-assisted-treatment/treatment>) is attached hereto as Exhibit E.

Given that CMG's clinics provide medical treatment of a medical condition subject to regulation by federal and state agencies in the medical field, there can be no dispute that the proposed Belt Boulevard clinic is a medical use. The Zoning Administrator's determination to the contrary should be reversed.

III. The Proposed Clinic Is a Permitted Use as of Right Because It Will Provide Health Care Services for Persons on an Outpatient Basis and No Patients Will Be Lodged Overnight

Section 30-1220.21 of the Ordinance contains only two criteria to constitute a "clinic": (1) that the facility provide health care services on an outpatient basis, and (2) that no patients be lodged overnight. CMG's proposed Belt Boulevard clinic, like its existing East Franklin Street clinic, satisfies both criteria and therefore constitutes a permitted use of the Property within an M-1 zoning district.

First, as confirmed in the Horwitz Affidavit, CMG's clinics do not lodge patients overnight. CMG's clinics are operated on a purely outpatient basis, in contrast to a group home or other residential setting.

Second, as confirmed in the Horwitz Affidavit and as discussed in detail in the preceding section, CMG's clinics provide health care services.

The Belt Boulevard clinic thus squarely fits within the definition of a "clinic," as set forth in the Ordinance. The Zoning Administrator's determination to the contrary is erroneous and should be reversed.

IV. The City's Unofficial "Long-Standing Policy" Is Belied by Existing Clinics in the Same or Similar Districts

To the extent the Zoning Administrator's Determination is based upon an unwritten "long-standing policy" that methadone treatment clinics or other substance abuse treatment clinics do not qualify as medical clinics, that policy has not been applied consistently. As mentioned above, CMG's existing clinic has operated in identical zoning at 2217 East Franklin Street since 2013.

In 2012, CMG sought and received from the Zoning Administrator a Zoning Confirmation Letter (the "2012 Zoning Confirmation Letter")⁷ determining that CMG's use of the East Franklin Street location was a medical clinic permitted as of right. As outlined in the 2012 Zoning Confirmation Letter, the East Franklin Street Clinic is zoned M-1 (Light Industrial). In other words, the zoning and the uses are identical, and there is no rational basis to conclude that the Belt Boulevard clinic is an impermissible use within M-1 when the East Franklin Street has operated within M-1 pursuant to the 2012 Zoning Confirmation Letter for the past six years.

⁷ The 2012 Zoning Confirmation Letter is attached as Exhibit 1 to the Horwitz Affidavit.

CMG is aware of one other private methadone treatment clinic within the City limits.⁸ According to the website of Human Resources, Inc.,⁹ a clinic at 15 West Cary Street offers treatment of OUD, including methadone treatment. The property at 15 West Cary Street is zoned TOD-1 (Transition-Oriented Nodal District). As outlined in Section 30-457.2(17) of the Zoning Ordinance, medical offices and clinics are a permitted use as of right in the TOD-1 zoning district. Indeed, Section 30-457.2(17) contains the exact same phrasing as the "Offices" use defined in Section 30-438.1(30) in the B-3 district (which are then incorporated as permitted uses in the M-1 district under Section 30-438.1).

Under Va. Code § 15.2-2822, "All zoning regulations shall be uniform for each class or kind of buildings and uses throughout each district. . . ." The uniformity principle embodies the guarantee of the equal protection of the laws under the Fourteenth Amendment.¹⁰ The City cannot legally prevent CMG from operating a methadone treatment clinic as a medical clinic when it permits other methadone treatment clinics to operate as medical clinics under identical definitions within the Ordinance. The uniformity principle likewise prevents the City from utilizing an unofficial, unwritten policy that some types of medical clinics count as medical clinics while others, like methadone treatment clinics, do not. The Zoning Administrator's Determination should be reversed.

V. The Americans with Disabilities Act Prohibits the City from Applying Zoning Ordinances to Discriminate Against Methadone Clinics

Since its enactment in 1990, the Americans with Disabilities Act has protected the civil rights of individuals with disabilities in all areas of public life, including transportation, jobs, schools, and all public and private places that are open to the general public. Title II of the ADA prohibits discrimination by state and local government entities:

[N]o qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.¹¹

Under the ADA, a "disability" is "a physical or mental impairment that substantially limits one or more of the major life activities of [an] individual,"¹² or "being regarded as having such an impairment."¹³

⁸ CMG also believes that the United States Department of Veteran's Affairs offers treatment of OUD through a methadone clinic located at the McGuire Veteran's Hospital within the City limits, though the federal government is not subject to the City's Zoning Ordinance.

⁹ See Human Resources, Inc. website (<https://www.hricorp.org/facilities/opioid/>). A copy of HRI's web page describing its opioid treatment program is attached hereto as Exhibit F.

¹⁰ *Schefer v. City Council of Falls Church*, 279 Va. 588, 594 (2010).

¹¹ 42 U.S.C. § 12132.

¹² 42 U.S.C. § 12102(1)(A).

¹³ 42 U.S.C. § 12012(1)(C).

Title II of the ADA allows a lawsuit by “any person alleging discrimination on the basis of disability.”¹⁴ This extends not only to individuals who themselves have disabilities, but also to individuals or entities who suffer discrimination as a result of their association with individuals who have disabilities.¹⁵ Federal courts can award monetary damages to prevailing parties in ADA lawsuits, as well as order the losing party to pay the prevailing party’s attorney’s fees.¹⁶

Numerous lawsuits against local governments have established that bans or other special regulations for methadone clinics under the guise of zoning violate the ADA and are therefore illegal. For example, courts have stricken or otherwise held as facially discriminatory:

- A Pennsylvania statute that prohibited the establishment of methadone clinics within 500 feet of schools, churches, and residential housing developments¹⁷
- A Kentucky city’s denial of a zoning permit under a ruling that a methadone clinic was not a permitted use in any zone in the city, followed by an amendment to the zoning ordinance to expressly prohibit more than one addiction treatment facility for every 20,000 persons (which numerically prevented the applicant from obtaining a permit)¹⁸
- A California city’s ban on methadone clinics within 500 feet of any residential property¹⁹
- A Maine city’s moratorium on methadone clinics within city limits²⁰
- Another Maine city’s denial of a use permit without basis in the zoning ordinance, followed by the amendment of the ordinance to create a new zoning use of “sole source pharmacy” that would apply only to methadone clinics²¹

¹⁴ 42 U.S.C. § 12133.

¹⁵ *Innovative Health Sys. v. City of White Plains*, 931 F. Supp. 222, 236-37 (S.D.N.Y. 1996); see also *A Helping Hand, LLC v. Balt. Cty.*, 515 F.3d 356, 364 (4th Cir. 2008) (“[E]very circuit that has considered whether a methadone clinic has standing under Title II of the ADA to bring a claim based on injuries resulting from its association with the addicted persons it serves has found that the clinic does have standing.”).

¹⁶ 42 U.S.C. § 12205.

¹⁷ *New Directions Treatment Servs. v. City of Reading*, 490 F.3d 293 (3d Cir. 2007).

¹⁸ *MX Grp., Inc. v. City of Covington*, 293 F.3d 326 (6th Cir. 2002).

¹⁹ *Bay Area Addiction Research & Treatment, Inc. v. City of Antioch*, 179 F.3d 725 (9th Cir. 1999); see also *Bay Area Addiction Research & Treatment, Inc. v. City of Antioch*, 2000 U.S. Dist. LEXIS 23050 (N.D. Cal. Mar. 15, 2000) (entering injunction against enforcement of ordinance).

²⁰ *CRC Health Grp., Inc. v. Town of Warren*, 2014 U.S. Dist. LEXIS 76239 (D. Me. Mar. 31, 2014).

²¹ *Fuller-McMahan v. City of Rockland*, 2005 U.S. Dist. LEXIS 13956 (D. Me. July 12, 2005).

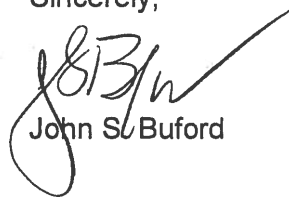
- A New York city's unsubstantiated classification of a treatment clinic as "hospital or sanitarium" rather than a medical office²²
- A Massachusetts city's zoning ordinance prohibiting methadone clinics within two miles of any school, which prevented the applicant from opening a clinic in a location where any other medical clinic would have been allowed²³

The ADA does not permit a city to enact an ordinance, or to follow an unwritten policy, that singles out methadone treatment clinics (or even substance abuse treatment clinics generally) for special treatment compared to other medical offices or clinics. The Zoning Administrator's "long-standing policy" that methadone treatment clinics are not medical clinics is invalid under the ADA. While CMG would prefer to obtain confirmation that its proposed Belt Boulevard clinic is permitted as of right under the Ordinance's definition of "clinic" – which does not contain the unwritten policy to which the Zoning Administrator alluded – CMG is prepared to seek relief in federal court if that confirmation is not forthcoming.

VI. Conclusion

For the reasons set forth above, CMG's proposed use of the Property constitutes a medical office or clinic permitted by right within the M-1 zoning district under the plain terms of the Zoning Ordinance. To the extent any unofficial "long-standing policy" says otherwise, that policy conflicts not only with the plain language of the Ordinance itself, but also with the ADA, and threatens to subject the City to litigation and liability for attorney's fees. Instead, CMG respectfully requests that the Board reverse the decision of the Zoning Administrator and confirm that CMG's proposed use of the Property is a permitted use as of right. We look forward to seeing you at the public hearing.

Sincerely,



John S. Buford

Enclosures
JSB/tbb

²² *Innovative Health Sys. v. City of White Plains*, 117 F.3d 37 (2d Cir. 1997).

²³ *Habit Mgmt. v. City of Lynn*, 235 F. Supp. 2d 28 (D. Mass. 2002).

EXHIBIT A



CITY OF RICHMOND

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW
ZONING ADMINISTRATION

November 7, 2019

Hancock Daniel
4701 Cox Road
Suite 400
Glen Allen, Virginia 23060

Attn: John S. Buford

**RE: Certification of Zoning: 449-A Belt Boulevard - Circle Shopping Center
(Tax Map: C006-0154/038 - the "Property")**

Ladies and Gentlemen:

In response to your letter dated March 28, 2019, as of the date of this letter, we regret to inform you of the following:

1. The property is located within the corporate limits of the City of Richmond, Virginia.
2. The Property is located in both the M-1 (Light Industrial) and B-3 (General Business) districts and is subject only the use restrictions generally applicable to those classifications which are contained in the City of Richmond Zoning Ordinance (the "Zoning Ordinance"). The entirety of the building that contains the address of 449-A is located within the M-1 zoning district and is subject only to the use restrictions generally applicable to that classification which is contained within the Zoning Ordinance.

The Property is also subject to a Special Use Permit (Ord. No. 2010-194-2011-6) which authorized two freestanding signs that exceed area requirements for the portion of the property located within the B-3 (General Business) zoning district.

Medical offices and clinics are permitted by-right on the Property. However, it has been a long-standing determination of this office that the use does not encompass the treatment of controlled substances, which is a use not defined within the zoning ordinance and is not permitted in this district.

Medical offices and clinics are permitted in many districts, the first of which is the R-73 (Multi-Family Residential) zoning district.

The Zoning Ordinance includes a number of other uses that specifically regulate, *"treatment or housing of persons who are currently illegally using or are addicted to a controlled substance"* as defined in the Code of Virginia is not permitted.

One of these uses is defined as a, "Social service delivery use" and is a use which is operated for the purpose of providing directly to persons who are members of a specific client group, as opposed to the general public, one or more services such as counseling, training, medical care, feeding, or similar services, when such use is operated on a not-for-profit basis and when no compensation or greatly reduced compensation is paid by persons receiving such service. The term "social service delivery use" shall not be construed to include uses operated by governmental agencies, facilities for housing of persons, facilities intended for incarceration or alternative sentencing, or facilities primarily for the care or treatment of persons who are currently illegally using or are addicted to a controlled substance as defined in Code of Virginia, § 54.1-3401.

Although the proposed use does not meet all of the conditions of this definition, specifically it is a for-profit entity, it exhibits many of the same attributes and this office has determined that it is a use not defined and, thus, only permitted in the M-2 (Heavy Industrial) zoning district.

3. The zoning yard (setback) requirements are:

Front: None
Rear: None
Side: None

-
4. The parking requirement for the proposed use is one space per three hundred (1:300) square feet of floor area. The zoning ordinance does not require a minimum number of handicapped parking spaces.
 5. Ingress and egress to and from the Property is to and from publicly dedicated roadways.
 6. There are no applications pending for rezoning of the Property, or for a conditional use permit or variance in connection with the Property.
 7. To the best of our knowledge, as of the date of this letter, the existing use of the Property is currently in compliance with the Zoning Ordinance, including but not limited to regulations regarding setbacks, density, parking and height.
 8. This department has no record of any pending zoning violations having been filed with respect to the Property, and the undersigned is unaware of any violations of the applicable portions of the Zoning Ordinance.

Hancock Daniel
ATTN: John S. Buford
RE: 449-A Belt Boulevard
November 7, 2019
Page 3

Please be advised that this office does not issue opinions with respect to compliance with building codes, fire codes or other health and safety regulations that may pertain. For building code issues, contact Jason Carangelo Commissioner of Buildings at 646-6359. For fire and safety questions, contact Fire and Emergency Services at 646-6640.

If you wish to authorize the use proposed, a Special Use Permit (SUP) shall be required to be approved by City Council. For information on that process, please contact the Land Use Administration Office at (804) 646-6304.

You are hereby advised that you have thirty (30) days from this notice in which to appeal this decision to the Board of Zoning Appeals, in accordance with §15.2-2311 of the Code of Virginia and §17.19 of the Richmond City Charter, or this decision shall be final and unappealable. Such appeal must be in writing and must be filed with the Secretary to the Board of Zoning Appeals. Said appeal shall indicate in specific terms the grounds for the appeal and must be accompanied by a filing fee of two hundred and fifty dollars (\$250.00).

I hope that this information is sufficient. If you should desire additional information or have questions concerning this letter, please contact Rich Saunders by Email: at: Richard.Saunders@Richmondgov.com or by telephone at: (804) 646-6356.

Sincerely,



William Davidson
Zoning Administrator
City of Richmond, Virginia

cc: Eagledale Realty LLC
10689 N Pennsylvania Street, #100
Indianapolis, Indiana 46280

EXHIBIT B

STATE OF Florida

CITY/COUNTY OF Orange

AFFIDAVIT OF JAMES HORWITZ

1. My name is James Horwitz. I am over the age of 18 years and am under no disability which would prevent me from testifying competently to the matters set forth herein. I have personal knowledge of these matters.

2. I am employed by Colonial Management Group, L.P. d/b/a "New Season" ("CMG") as Vice President of Business Development. In that role, my responsibilities include the opening of new clinic locations for Colonial Management Group and its subsidiaries, including oversight of the identification of potential locations for new clinics, local government relations, negotiation of leases, oversight of construction management, and collaboration with other internal departments for successful timely location openings.

3. CMG is the majority limited partner owner of Metro Treatment of Virginia, L.P., through which CMG operates three addiction treatment clinics in Virginia, including one within the City of Richmond. That existing treatment clinic in Richmond is located at 2217 East Franklin Street.

4. Since 1986, CMG and its subsidiaries have operated medical clinics around the country. Presently, CMG operates more than 70 addiction treatment clinics in more than 20 states nationwide.

5. CMG's clinics specialize in the treatment of Opioid Use Disorder ("OUD"). OUD is a behavioral health disorder recognized in the *Diagnostic and Statistical Manual of Mental Disorders* (5th edition 2013), a.k.a the DSM-V.

6. CMG has operated the 2217 East Franklin Street clinic since 2013. On October 18, 2012, the City of Richmond issued a Zoning Confirmation Letter (attached hereto as Exhibit 1) confirming that CMG's treatment clinic was a medical office or clinic and therefore was a permissible use as of right in the M-1 (Light Industrial) district.

7. CMG desires to open an additional clinic within the City of Richmond in order to serve a population with great need of addiction treatment in a manner that offers additional geographic convenience to patients in and around Richmond. CMG has identified a space for rent at 449-A Belt Boulevard, as the location from which it would like to operate a new clinic.

8. I understand that the zoning of the proposed Belt Boulevard clinic location is M-1, just like the zoning of the existing East Franklin Street clinic. I also understand that our attorneys requested confirmation from the City's Zoning Administrator that our Belt Boulevard clinic would be a permissible use, just as we sought and received in 2012 for the East Franklin Street clinic.

9. I have reviewed the Zoning Administrator's letter dated November 7, 2019 denying our requested confirmation contrary to the 2012 determination with respect to the East Franklin Street clinic. According to the Zoning Administrator's November 7 determination, our Belt Boulevard clinic would not be a permissible

use because it did not qualify within the phrase “medical and dental offices and clinics,” but instead was characterized as a “social service delivery use.”

10. The Zoning Administrator acknowledged that medical offices and clinics were permitted as a matter of right at the Belt Boulevard location. However, the Zoning Administrator stated that “it has been a long-standing determination of this office that the use does not encompass the treatment of controlled substances, which is a use not defined within the zoning ordinance and is not permitted in this district.”

11. Given that our East Franklin Street clinic received its zoning confirmation letter in 2012 for the same use in the same M-1 zoning district, it appears that the “long-standing determination” is not consistently applied. In addition, we are aware of another methadone treatment clinic operating within the City of Richmond at 15 West Cary Street, which is in a TOD-1 (formerly B-3) zoning district. Like the M-1 district, TOD-1 permits medical offices and clinics as of right.

12. CMG’s clinics treat patients who suffer from OUD, which is a medical disease. Our clinics are medical facilities that provide medical treatment to patients suffering from a bona fide disease. The fact that this disease is rooted in an addiction to opioids does not make the treatment any less “medical.”

13. Our Virginia clinics are licensed and regulated by the Virginia Department of Behavioral Health and Developmental Services (“DBHDS”).

14. Our Virginia clinics are certified as an opioid treatment program by the U.S. Department of Health and Human Services Substance Abuse and Mental Health Administration (“SAMHSA”).

15. Our Virginia clinics have a Controlled Substance Registration certificate from the U.S. Department of Justice, Drug Enforcement Administration (“DEA”).

16. Our Virginia clinics house and operate pharmacies that are licensed by the Virginia Department of Health Professions (“DHP”) and its Board of Pharmacy.

17. As noted above, OUD is a mental health disorder recognized in the DSM-V. Medical diagnoses of OUD are included in the medical industry standards known as ICD-10-CM (the International Classification of Diseases, Tenth Revision, Clinical Modification). ICD-10 is promulgated by the World Health Organization and is utilized by the federal Centers for Medicare and Medicaid Services (“CMS”) as an American industry standard.

18. Methadone treatment is recognized as a medical service within the health care industry. For billing purposes, methadone treatment has its own industry standard billing code within the Healthcare Common Procedure Coding System (“HCPCS,” commonly pronounced as “hick-picks”), which is published and maintained by the American Medical Association. That code is H0020.

19. Methadone, which is used for the treatment of OUD, is a synthetic narcotic that helps curb cravings and opiate withdrawal symptoms. Methadone is

recognized as an effective treatment for recovering opioid addicts, and is the recommended treatment for patients who were long-time or intravenous drug users.

20. Methadone is provided as part of addiction therapy under medical supervision. Dosages are strictly controlled. At the earliest stages of treatment, patients must visit the clinic each day. A Virginia-licensed nurse administers an oral dose of methadone directly to the patient, who must swallow the dose in front of the nurse, then speak to the nurse after swallowing to verify that the patient is not holding the medication in his or her mouth.

21. In addition to methadone treatment, our clinics also provide behavioral health counseling. Metro Treatment of Virginia requires each new patient to receive face-to-face counseling sessions at least every two weeks during the first year of treatment, comprising a minimum of two hours per month. After the first year of treatment, our patients must receive face-to-face counseling at least monthly, but an individual patient may be required to attend counseling more frequently as determined by treatment staff. CMG's clinics offer individual, group, and family counseling services individualized according to a particular patient's treatment plan.

22. As part of the Virginia DBHDS oversight of our East Franklin Street clinic, we are required to submit a staffing plan to DBHDS for review and approval. The DBHDS-approved staffing plan for the 2217 East Franklin Street Clinic is attached hereto as Exhibit 2. As set forth in the staffing plan, the East Franklin Street clinic employs a program director, a treatment services coordinator, a mental

health professional who serves as a licensed supervisor, multiple mental and behavioral health counselors, multiple nurses, a licensed pharmacist who serves as the clinic's Pharmacist in Charge, and a physician who serves as the clinic's Medical Director. We anticipate similar staffing for the Belt Boulevard clinic.

23. The 2217 East Franklin Street clinic operates with business hours from 5:00 a.m. to 1:30 p.m. Monday through Friday, with the pharmacy operating between 5:00 a.m. and 11:00 a.m. Approximately 56% of patients arrive at the East Franklin Street clinic before 8 a.m. In a typical week, 330 patients visit the 2217 East Franklin Street clinic. We plan to operate the 419-A Belt Boulevard clinic using similar hours and with similar results.

24. Like CMG's other clinics, the Belt Boulevard clinic will provide health care services on an outpatient basis only. No patients will be lodged overnight.

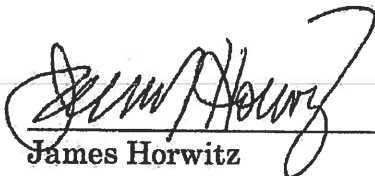
25. To the best of our knowledge, CMG's clinic at 2217 East Franklin Street clinic has never been cited by the City for any code violations.

26. I also understand from the Zoning Administrator's letter that the Zoning Administrator potentially considers our use analogous to a social service delivery use, which is defined in the ordinance as a not-for-profit organization. CMG is not a social service organization. CMG is a for-profit provider of medical services that is regulated by no fewer than four separate state and federal agencies responsible for the oversight of healthcare services. CMG bills its patients and their commercial health insurance plans using industry-standard criteria for healthcare billing and coding.

27. Without access to methadone treatment, recovering addicts are at serious risk for exposure to addictive drugs, potentially resulting in death, illness or permanent disability, and significantly impairing their participation in major life activities. The death rate for heroin addicts awaiting treatment is high. According to the National Institutes of Health, deaths in Virginia from opioid overdoses have risen steadily from approximately 200 in 1999 to 1,241 in 2017.

28. CMG's East Franklin Street clinic and CMG's clinic in Chesterfield County are currently operating at or near capacity. There remains a great need for medical treatment of Opioid Use Disorder and other substance abuse diseases within the City of Richmond and the Richmond metropolitan area.

FURTHER AFFIANT SAYETH NAUGHT.


James Horwitz

STATE OF Florida

CITY/COUNTY OF Waitland / Orange

Sworn to and subscribed before me personally this 21st day of November, 2019.


Notary Public

Deborah S. L. M. Baryla, Notary Public
[Printed Name]

My Commission Expires: 8/10/2022

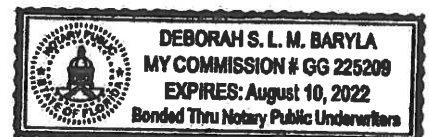


EXHIBIT B-1



CITY OF RICHMOND

DEPARTMENT OF COMMUNITY DEVELOPMENT
ZONING ADMINISTRATION

October 18, 2012

Metro Treatment of Virginia, LP
8529 South Park Circle, Suite 270
Orlando, FL 32819

Attention: Katie Peck

RE: **2217 E. Franklin Street**
Tax Parcel E000-0261/005
Proposed Outpatient Treatment Clinic (6,490 sq. ft.)

Dear Ms. Peck:

In response to your request for certain zoning information concerning subject property, please be advised as follows:

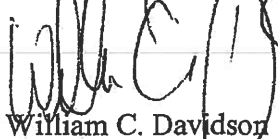
- Zoning is M-1 (Light Industrial). The property is also located within the Saint John's Church Old and Historic District.
- Medical offices and clinics are permitted uses by right in a M-1 district.
- For office/clinic use, one off-street parking space is required per 300 sq. ft. of floor area for the first 1,500 sq. ft., plus one per 400 sq. ft. in excess thereof. According to our files, the two existing manufacturing tenants have a total of 158 employees which would require 79 parking spaces (1 per 2 employees). Additional space would be required for vehicles utilized by the manufacturing facilities. There are 32 on-site spaces; another 72 spaces in a parking deck at 2301 E. Franklin Street are available from 6:00 A.M. to 5:00 P.M. Verification of the existing parking requirement will be necessary prior to approval of any building permit to create the office use.
- As previously mentioned, the property is located within an Old & Historic District. Any exterior work or signage will require Commission of Architectural approval.

Metro Treatment of Virginia, LP
Attn: Katie Peck
RE: 2217 E. Franklin Street
October 18, 2012
Page 2

You are hereby advised that you have thirty (30) days from this notice in which to appeal this decision to the Board of Zoning Appeals, in accordance with §15.2-2311 of the Code of Virginia and §17.19 of the Richmond City Charter, or this decision shall be final and unappealable. Such appeal must be in writing and must be filed with the Secretary to the Board of Zoning Appeals. Said appeal shall indicate in specific terms the grounds for the appeal and must be accompanied by a filing fee of two hundred fifty dollars (\$250.00).

Should you have any questions concerning this letter, please contact Senior Planner Neil Brooks or me at 646-6340.

Sincerely,

A handwritten signature in black ink, appearing to read 'W.C. Davidson', is written over a horizontal line.

William C. Davidson
Zoning Administrator

EXHIBIT B-2

Virginia Staffing Plan

Program Director will be licensed or certified by the applicable Virginia health regulatory board or by a nationally recognized certification board or eligible for this license or certification with relevant training, experience, or both, in the treatment of individuals with opioid addiction. Program Directors will be required to maintain continuing education on opioid addiction treatment.

Every facility will have a designated Program Director back up whom will be responsible for ensuring the day to day operations in the event that the Program Director is not onsite.

In the event that the Program Director identified is no longer employed, a plan for continued oversight and management of the facility will be outlined and submitted to the Zone Director for review/approval. Upon approval, the Regional Director must submit notification to all necessary regulatory entities of the Program Director's departure and the plan for continued oversight of the facility. In most cases, the Regional Director will be responsible for the management of the facility onsite until a new Program Director is appointed.

Treatment Services Coordinator: For every 350 patients a Treatment Services Coordinator (TSC) will be employed to provide oversight of the company's quality assurance policy; monitoring patient record compliance and reviews.

Licensed Supervisor: All facilities must maintain an identified Licensed Supervisor who is a licensed mental health professional or a mental health professional who is license-eligible and registered with a board of the Department of Health Professions. In most cases this individual will be a contracted employee however the facility may identify an individual who could work in the capacity of both the TSC and licensed supervisor.

In the event that the Licensed Supervisor identified is no longer employed, a plan for continued oversight and management of the facility will be outlined and submitted to the Regional Director for review/approval. Upon approval the Program Director must submit notification to all necessary regulatory entities of the Licensed Supervisor's departure and the plan for continued supervision. In some cases; an interim Licensed Supervisor may be needed, in those cases the Program Director should ensure that all required background checks and trainings specific to their facility is completed prior to the interim assuming any responsibilities.

Counselors: There are six levels of counselors.

- **Counselor 1-** Bachelor's Degree in a related field, but no SUD experience. Hired similar to an "intern"; in which they must receive specific onsite training prior to providing any direct care. This training is provided over a 90 day period, in which they will obtain their necessary 300 hours of experience and training to be moved into a Counselor 2 level. They cannot provide any direct care services until they are moved into a Counselor 2 level.
- **Counselor 2-** Bachelor's Degree in a related field, 300 hours of SUD experience or training.
- **Counselor 3-** Certification in counseling, and 500 hours of SUD experience or training.

- Counselor 4- Master's Degree in a related field, and 500 hours of SUD experience or training.
- Counselor 5- Licensed counselor, and 500 hours of SUD experience or training.
- Counselor 6- Licensed counselor, Master's Degree, and 500 hours of SUD experience or training.

It is the expectation that facilities maintain a 45:1 ratio; in the event of an unexpected counselor departure ratios may exceed the 45:1 ratio on a temporary basis. Program Directors must inform their Regional Directors of the plan for ensuring compliance with all patient care services in the event that ratios exceed 45:1.

At minimum, 30% of the counselors must be licensed/certified.

Nurses: Staffing for nursing is based on census, number of dosing windows, number of intake days, operating days, and number of special care patients. This is calculated on a monthly basis and nurses should be staffed to the outline at the beginning of the month. In general, the expectation is to have 1.3 nursing hours per patient for the month. (Nursing hours for the month/census)

Each facility must have an identified "lead nurse" who has completed the necessary courses to be qualified for this role.

Medical Director: It is the expectation that Medical Directors are contracted to be onsite at minimum 3 days per week. Medical Director hours are contracted based on census and clinic individual needs.

Every facility should have a contracted "back-up" physician; in the event that the Medical Director is unavailable.

Pharmacist: It is the expectation that a Pharmacist in Charge is contracted to be onsite at minimum 1 day per week. Pharmacist hours are contracted based on census and clinic individual needs.

Every facility should have a contracted "back-up" pharmacist; in the event that the Pharmacist in Charge is unavailable.

Program Director Signature

Date

EXHIBIT C

DIAGNOSTIC AND STATISTICAL
MANUAL OF
MENTAL DISORDERS

DSM-5[®]



AMERICAN PSYCHIATRIC ASSOCIATION

Opioid Use Disorder

Diagnostic Criteria

- A. A problematic pattern of opioid use leading to clinically significant impairment or distress, as manifested by at least two of the following, occurring within a 12-month period:
1. Opioids are often taken in larger amounts or over a longer period than was intended.
 2. There is a persistent desire or unsuccessful efforts to cut down or control opioid use.
 3. A great deal of time is spent in activities necessary to obtain the opioid, use the opioid, or recover from its effects.
 4. Craving, or a strong desire or urge to use opioids.
 5. Recurrent opioid use resulting in a failure to fulfill major role obligations at work, school, or home.
 6. Continued opioid use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of opioids.
 7. Important social, occupational, or recreational activities are given up or reduced because of opioid use.
 8. Recurrent opioid use in situations in which it is physically hazardous.
 9. Continued opioid use despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by the substance.
 10. Tolerance, as defined by either of the following:
 - a. A need for markedly increased amounts of opioids to achieve intoxication or desired effect.
 - b. A markedly diminished effect with continued use of the same amount of an opioid.

Note: This criterion is not considered to be met for those taking opioids solely under appropriate medical supervision.
 11. Withdrawal, as manifested by either of the following:
 - a. The characteristic opioid withdrawal syndrome (refer to Criteria A and B of the criteria set for opioid withdrawal, pp. 547–548).
 - b. Opioids (or a closely related substance) are taken to relieve or avoid withdrawal symptoms.

Note: This criterion is not considered to be met for those individuals taking opioids solely under appropriate medical supervision.

Specify if:

In early remission: After full criteria for opioid use disorder were previously met, none of the criteria for opioid use disorder have been met for at least 3 months but for less than 12 months (with the exception that Criterion A4, "Craving, or a strong desire or urge to use opioids," may be met).

In sustained remission: After full criteria for opioid use disorder were previously met, none of the criteria for opioid use disorder have been met at any time during a period of 12 months or longer (with the exception that Criterion A4, "Craving, or a strong desire or urge to use opioids," may be met).

Specify if:

On maintenance therapy: This additional specifier is used if the individual is taking a prescribed agonist medication such as methadone or buprenorphine and none of the criteria for opioid use disorder have been met for that class of medication (except tolerance to, or withdrawal from, the agonist). This category also applies to those individ-

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uals being maintained on a partial agonist, an agonist/antagonist, or a full antagonist such as oral naltrexone or depot naltrexone.

In a controlled environment: This additional specifier is used if the individual is in an environment where access to opioids is restricted.

Coding based on current severity: Note for ICD-10-CM codes: If an opioid intoxication, opioid withdrawal, or another opioid-induced mental disorder is also present, do not use the codes below for opioid use disorder. Instead, the comorbid opioid use disorder is indicated in the 4th character of the opioid-induced disorder code (see the coding note for opioid intoxication, opioid withdrawal, or a specific opioid-induced mental disorder). For example, if there is comorbid opioid-induced depressive disorder and opioid use disorder, only the opioid-induced depressive disorder code is given, with the 4th character indicating whether the comorbid opioid use disorder is mild, moderate, or severe: F11.14 for mild opioid use disorder with opioid-induced depressive disorder or F11.24 for a moderate or severe opioid use disorder with opioid-induced depressive disorder.

Specify current severity:

305.50 (F11.10) Mild: Presence of 2–3 symptoms.

304.00 (F11.20) Moderate: Presence of 4–5 symptoms.

304.00 (F11.20) Severe: Presence of 6 or more symptoms.

Specifiers

The “on maintenance therapy” specifier applies as a further specifier of remission if the individual is both in remission and receiving maintenance therapy. “In a controlled environment” applies as a further specifier of remission if the individual is both in remission and in a controlled environment (i.e., in early remission in a controlled environment or in sustained remission in a controlled environment). Examples of these environments are closely supervised and substance-free jails, therapeutic communities, and locked hospital units.

Changing severity across time in an individual is also reflected by reductions in the frequency (e.g., days of use per month) and/or dose (e.g., injections or number of pills) of an opioid, as assessed by the individual’s self-report, report of knowledgeable others, clinician’s observations, and biological testing.

Diagnostic Features

Opioid use disorder includes signs and symptoms that reflect compulsive, prolonged self-administration of opioid substances that are used for no legitimate medical purpose or, if another medical condition is present that requires opioid treatment, that are used in doses greatly in excess of the amount needed for that medical condition. (For example, an individual prescribed analgesic opioids for pain relief at adequate dosing will use significantly more than prescribed and not only because of persistent pain.) Individuals with opioid use disorder tend to develop such regular patterns of compulsive drug use that daily activities are planned around obtaining and administering opioids. Opioids are usually purchased on the illegal market but may also be obtained from physicians by falsifying or exaggerating general medical problems or by receiving simultaneous prescriptions from several physicians. Health care professionals with opioid use disorder will often obtain opioids by writing prescriptions for themselves or by diverting opioids that have been prescribed for patients or from pharmacy supplies. Most individuals with opioid use disorder have significant levels of tolerance and will experience withdrawal on abrupt discontinuation of opioid substances. Individuals with opioid use disorder often develop conditioned responses to drug-related stimuli (e.g., craving on seeing any heroin powder-like substance)—a phenomenon that occurs with most drugs that cause intense psychological changes. These responses probably contribute to relapse, are difficult to extinguish, and typically persist long after detoxification is completed.

Associated Features Supporting Diagnosis

Opioid use disorder can be associated with a history of drug-related crimes (e.g., possession or distribution of drugs, forgery, burglary, robbery, larceny, receiving stolen goods). Among health care professionals and individuals who have ready access to controlled substances, there is often a different pattern of illegal activities involving problems with state licensing boards, professional staffs of hospitals, or other administrative agencies. Marital difficulties (including divorce), unemployment, and irregular employment are often associated with opioid use disorder at all socioeconomic levels.

Prevalence

The 12-month prevalence of opioid use disorder is approximately 0.37% among adults age 18 years and older in the community population. This may be an underestimate because of the large number of incarcerated individuals with opioid use disorders. Rates are higher in males than in females (0.49% vs. 0.26%), with the male-to-female ratio typically being 1.5:1 for opioids other than heroin (i.e., available by prescription) and 3:1 for heroin. Female adolescents may have a higher likelihood of developing opioid use disorders. The prevalence decreases with age, with the prevalence highest (0.82%) among adults age 29 years or younger, and decreasing to 0.09% among adults age 65 years and older. Among adults, the prevalence of opioid use disorder is lower among African Americans at 0.18% and over-represented among Native Americans at 1.25%. It is close to average among whites (0.38%), Asian or Pacific Islanders (0.35%), and Hispanics (0.39%).

Among individuals in the United States ages 12–17 years, the overall 12-month prevalence of opioid use disorder in the community population is approximately 1.0%, but the prevalence of heroin use disorder is less than 0.1%. By contrast, analgesic use disorder is prevalent in about 1.0% of those ages 12–17 years, speaking to the importance of opioid analgesics as a group of substances with significant health consequences.

The 12-month prevalence of problem opioid use in European countries in the community population ages 15–64 years is between 0.1% and 0.8%. The average prevalence of problem opioid use in the European Union and Norway is between 0.36% and 0.44%.

Development and Course

Opioid use disorder can begin at any age, but problems associated with opioid use are most commonly first observed in the late teens or early 20s. Once opioid use disorder develops, it usually continues over a period of many years, even though brief periods of abstinence are frequent. In treated populations, relapse following abstinence is common. Even though relapses do occur, and while some long-term mortality rates may be as high as 2% per year, about 20%–30% of individuals with opioid use disorder achieve long-term abstinence. An exception concerns that of military service personnel who became dependent on opioids in Vietnam; over 90% of this population who had been dependent on opioids during deployment in Vietnam achieved abstinence after they returned, but they experienced increased rates of alcohol or amphetamine use disorder as well as increased suicidality.

Increasing age is associated with a decrease in prevalence as a result of early mortality and the remission of symptoms after age 40 years (i.e., “maturing out”). However, many individuals continue have presentations that meet opioid use disorder criteria for decades.

Risk and Prognostic Factors

Genetic and physiological. The risk for opioid use disorder can be related to individual, family, peer, and social environmental factors, but within these domains, genetic factors play a particularly important role both directly and indirectly. For instance, impulsivity and novelty seeking are individual temperaments that relate to the propensity to develop

a substance use disorder but may themselves be genetically determined. Peer factors may relate to genetic predisposition in terms of how an individual selects his or her environment.

Culture-Related Diagnostic Issues

Despite small variations regarding individual criterion items, opioid use disorder diagnostic criteria perform equally well across most race/ethnicity groups. Individuals from ethnic minority populations living in economically deprived areas have been overrepresented among individuals with opioid use disorder. However, over time, opioid use disorder is seen more often among white middle-class individuals, especially females, suggesting that differences in use reflect the availability of opioid drugs and that other social factors may impact prevalence. Medical personnel who have ready access to opioids may be at increased risk for opioid use disorder.

Diagnostic Markers

Routine urine toxicology test results are often positive for opioid drugs in individuals with opioid use disorder. Urine test results remain positive for most opioids (e.g., heroin, morphine, codeine, oxycodone, propoxyphene) for 12–36 hours after administration. Fentanyl is not detected by standard urine tests but can be identified by more specialized procedures for several days. Methadone, buprenorphine (or buprenorphine/naloxone combination), and LAAM (L-alpha-acetylmethadol) have to be specifically tested for and will not cause a positive result on routine tests for opiates. They can be detected for several days up to more than 1 week. Laboratory evidence of the presence of other substances (e.g., cocaine, marijuana, alcohol, amphetamines, benzodiazepines) is common. Screening test results for hepatitis A, B, and C virus are positive in as many as 80%–90% of injection opioid users, either for hepatitis antigen (signifying active infection) or for hepatitis antibody (signifying past infection). HIV is prevalent in injection opioid users as well. Mildly elevated liver function test results are common, either as a result of resolving hepatitis or from toxic injury to the liver due to contaminants that have been mixed with the injected opioid. Subtle changes in cortisol secretion patterns and body temperature regulation have been observed for up to 6 months following opioid detoxification.

Suicide Risk

Similar to the risk generally observed for all substance use disorders, opioid use disorder is associated with a heightened risk for suicide attempts and completed suicides. Particularly notable are both accidental and deliberate opioid overdoses. Some suicide risk factors overlap with risk factors for an opioid use disorder. In addition, repeated opioid intoxication or withdrawal may be associated with severe depressions that, although temporary, can be intense enough to lead to suicide attempts and completed suicides. Available data suggest that nonfatal accidental opioid overdose (which is common) and attempted suicide are distinct clinically significant problems that should not be mistaken for each other.

Functional Consequences of Opioid Use Disorder

Opioid use is associated with a lack of mucous membrane secretions, causing dry mouth and nose. Slowing of gastrointestinal activity and a decrease in gut motility can produce severe constipation. Visual acuity may be impaired as a result of pupillary constriction with acute administration. In individuals who inject opioids, sclerosed veins ("tracks") and puncture marks on the lower portions of the upper extremities are common. Veins sometimes become so severely sclerosed that peripheral edema develops, and individuals switch to injecting in veins in the legs, neck, or groin. When these veins become unusable, individuals often inject directly into their subcutaneous tissue ("skin-popping"), resulting

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in cellulitis, abscesses, and circular-appearing scars from healed skin lesions. Tetanus and *Clostridium botulinum* infections are relatively rare but extremely serious consequences of injecting opioids, especially with contaminated needles. Infections may also occur in other organs and include bacterial endocarditis, hepatitis, and HIV infection. Hepatitis C infections, for example, may occur in up to 90% of persons who inject opioids. In addition, the prevalence of HIV infection can be high among individuals who inject drugs, a large proportion of whom are individuals with opioid use disorder. HIV infection rates have been reported to be as high as 60% among heroin users with opioid use disorder in some areas of the United States or the Russian Federation. However, the incidence may also be 10% or less in other areas, especially those where access to clean injection material and paraphernalia is facilitated.

Tuberculosis is a particularly serious problem among individuals who use drugs intravenously, especially those who are dependent on heroin; infection is usually asymptomatic and evident only by the presence of a positive tuberculin skin test. However, many cases of active tuberculosis have been found, especially among those who are infected with HIV. These individuals often have a newly acquired infection but also are likely to experience reactivation of a prior infection because of impaired immune function.

Individuals who sniff heroin or other opioids into the nose ("snorting") often develop irritation of the nasal mucosa, sometimes accompanied by perforation of the nasal septum. Difficulties in sexual functioning are common. Males often experience erectile dysfunction during intoxication or chronic use. Females commonly have disturbances of reproductive function and irregular menses.

In relation to infections such as cellulitis, hepatitis, HIV infection, tuberculosis, and endocarditis, opioid use disorder is associated with a mortality rate as high as 1.5%–2% per year. Death most often results from overdose, accidents, injuries, AIDS, or other general medical complications. Accidents and injuries due to violence that is associated with buying or selling drugs are common. In some areas, violence accounts for more opioid-related deaths than overdose or HIV infection. Physiological dependence on opioids may occur in about half of the infants born to females with opioid use disorder; this can produce a severe withdrawal syndrome requiring medical treatment. Although low birth weight is also seen in children of mothers with opioid use disorder, it is usually not marked and is generally not associated with serious adverse consequences.

Differential Diagnosis

Opioid-induced mental disorders. Opioid-induced disorders occur frequently in individuals with opioid use disorder. Opioid-induced disorders may be characterized by symptoms (e.g., depressed mood) that resemble primary mental disorders (e.g., persistent depressive disorder [dysthymia] vs. opioid-induced depressive disorder, with depressive features, with onset during intoxication). Opioids are less likely to produce symptoms of mental disturbance than are most other drugs of abuse. Opioid intoxication and opioid withdrawal are distinguished from the other opioid-induced disorders (e.g., opioid-induced depressive disorder, with onset during intoxication) because the symptoms in these latter disorders predominate the clinical presentation and are severe enough to warrant independent clinical attention.

Other substance intoxication. Alcohol intoxication and sedative, hypnotic, or anxiolytic intoxication can cause a clinical picture that resembles that for opioid intoxication. A diagnosis of alcohol or sedative, hypnotic, or anxiolytic intoxication can usually be made based on the absence of pupillary constriction or the lack of a response to naloxone challenge. In some cases, intoxication may be due both to opioids and to alcohol or other sedatives. In these cases, the naloxone challenge will not reverse all of the sedative effects.

Other withdrawal disorders. The anxiety and restlessness associated with opioid withdrawal resemble symptoms seen in sedative-hypnotic withdrawal. However, opioid withdrawal is also accompanied by rhinorrhea, lacrimation, and pupillary dilation, which

are not seen in sedative-type withdrawal. Dilated pupils are also seen in hallucinogen intoxication and stimulant intoxication. However, other signs or symptoms of opioid withdrawal, such as nausea, vomiting, diarrhea, abdominal cramps, rhinorrhea, or lacrimation, are not present.

Comorbidity

The most common medical conditions associated with opioid use disorder are viral (e.g., HIV, hepatitis C virus) and bacterial infections, particularly among users of opioids by injection. These infections are less common in opioid use disorder with prescription opioids. Opioid use disorder is often associated with other substance use disorders, especially those involving tobacco, alcohol, cannabis, stimulants, and benzodiazepines, which are often taken to reduce symptoms of opioid withdrawal or craving for opioids, or to enhance the effects of administered opioids. Individuals with opioid use disorder are at risk for the development of mild to moderate depression that meets symptomatic and duration criteria for persistent depressive disorder (dysthymia) or, in some cases, for major depressive disorder. These symptoms may represent an opioid-induced depressive disorder or an exacerbation of a preexisting primary depressive disorder. Periods of depression are especially common during chronic intoxication or in association with physical or psychosocial stressors that are related to the opioid use disorder. Insomnia is common, especially during withdrawal. Antisocial personality disorder is much more common in individuals with opioid use disorder than in the general population. Posttraumatic stress disorder is also seen with increased frequency. A history of conduct disorder in childhood or adolescence has been identified as a significant risk factor for substance-related disorders, especially opioid use disorder.

Opioid Intoxication

Diagnostic Criteria

- A. Recent use of an opioid.
- B. Clinically significant problematic behavioral or psychological changes (e.g., initial euphoria followed by apathy, dysphoria, psychomotor agitation or retardation, impaired judgment) that developed during, or shortly after, opioid use.
- C. Pupillary constriction (or pupillary dilation due to anoxia from severe overdose) and one (or more) of the following signs or symptoms developing during, or shortly after, opioid use:
 1. Drowsiness or coma.
 2. Slurred speech.
 3. Impairment in attention or memory.
- D. The signs or symptoms are not attributable to another medical condition and are not better explained by another mental disorder, including intoxication with another substance.

Specify if:

With perceptual disturbances: This specifier may be noted in the rare instance in which hallucinations with intact reality testing or auditory, visual, or tactile illusions occur in the absence of a delirium.

Coding note: The ICD-9-CM code is **292.89**. The ICD-10-CM code depends on whether or not there is a comorbid opioid use disorder and whether or not there are perceptual disturbances.

For opioid intoxication without perceptual disturbances: If a mild opioid use disorder is comorbid, the ICD-10-CM code is **F11.129**, and if a moderate or severe opioid

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Diagnostic

The essential feature is a pattern of problematic behavior, including dysphoria, psychomotor agitation, or, shortly after, pupillary constriction or pupillary dilation. The signs or symptoms are better explained by another medical condition.

Differential

Other substance use disorders: Other substance use disorders can cause a similar pattern of behavior, but the signs or symptoms are better explained by the other substance use disorder. The signs or symptoms are better explained by the other substance use disorder.

Other opioid-related conditions: Other opioid-related conditions can cause a similar pattern of behavior, but the signs or symptoms are better explained by the other condition.

Diagnostic

A. Presence of

1. Cessation of use of several substances
2. Administration of

B. Three (or more)

1. Dysphoria
2. Nausea or vomiting
3. Muscle aches
4. Lacrimation
5. Pupillary constriction

EXHIBIT D



As Ordered in the ICD-10-CM Classification



[Download Easy-to-Print Guide](#)

| Disorder | DSM-5 Recommended ICD-10-CM Code for use through September 30, 2017 | DSM-5 Recommended ICD-10-CM Code for use beginning October 1, 2017 |
|---|--|---|
| Alcohol Use Disorder, Mild | F10.10 | F10.10 |
| Alcohol Use Disorder, Mild, in early or sustained remission | F10.10 | F10.11 |
| Alcohol Use Disorder, Moderate | F10.20 | F10.20 |
| Alcohol Use Disorder, Moderate, in early or sustained remission | F10.20 | F10.21 |
| Alcohol Use Disorder, Severe | F10.20 | F10.20 |
| Alcohol Use Disorder, Severe, in early or sustained remission | F10.20 | F10.21 |
| Opioid Use Disorder, Mild | F11.10 | F11.10 |
| Opioid Use Disorder, Mild, in early or sustained remission | F11.10 | F11.11 |
| Opioid Use Disorder, Moderate | F11.20 | F11.20 |
| Opioid Use Disorder, Moderate, in early or sustained remission | F11.20 | F11.21 |

| Disorder | DSM-5 Recommended ICD-10-CM Code for use through September 30, 2017 | DSM-5 Recommended ICD-10-CM Code for use beginning October 1, 2017 |
|---|--|---|
| Opioid Use Disorder, Severe | F11.20 | F11.20 |
| Opioid Use Disorder, Severe, in early or sustained remission | F11.20 | F11.21 |
| Cannabis Use Disorder, Mild | F12.10 | F12.10 |
| Cannabis Use Disorder, Mild, in early or sustained remission | F12.10 | F12.11 |
| Cannabis Use Disorder, Moderate | F12.20 | F12.20 |
| Cannabis Use Disorder, Moderate, in early or sustained remission | F12.20 | F12.21 |
| Cannabis Use Disorder, Severe | F12.20 | F12.20 |
| Cannabis Use Disorder, Severe, in early or sustained remission | F12.20 | F12.21 |
| Sedative, Hypnotic, or Anxiolytic Use Disorder, Mild | F13.10 | F13.10 |
| Sedative, Hypnotic, or Anxiolytic Use Disorder, Mild, in early or sustained remission | F13.10 | F13.11 |
| Sedative, Hypnotic, or Anxiolytic Use Disorder, Moderate | F13.20 | F13.20 |
| Sedative, Hypnotic, or Anxiolytic Use Disorder, Moderate, in early or sustained remission | F13.20 | F13.21 |
| Sedative, Hypnotic, or Anxiolytic Use Disorder, Severe | F13.20 | F13.20 |
| Sedative, Hypnotic, or Anxiolytic Use Disorder, Severe, in early or sustained remission | F13.20 | F13.21 |
| Cocaine Use Disorder, Mild | F14.10 | F14.10 |

| Disorder | DSM-5 Recommended ICD-10-CM Code for use through September 30, 2017 | DSM-5 Recommended ICD-10-CM Code for use beginning October 1, 2017 |
|--|--|---|
| Cocaine Use Disorder, Mild, in early or sustained remission | F14.10 | F14.11 |
| Cocaine Use Disorder, Moderate | F14.20 | F14.20 |
| Cocaine Use Disorder, Moderate, in early or sustained remission | F14.20 | F14.21 |
| Cocaine Use Disorder, Severe | F14.20 | F14.20 |
| Cocaine Use Disorder, Severe, in early or sustained remission | F14.20 | F14.21 |
| Amphetamine-type Substance Use Disorder, Mild | F15.10 | F15.10 |
| Amphetamine-type Substance Use Disorder, Mild, in early or sustained remission | F15.10 | F15.11 |
| Amphetamine-type Substance Use Disorder, Moderate | F15.20 | F15.20 |
| Amphetamine-type Substance Use Disorder, Moderate, in early or sustained remission | F15.20 | F15.21 |
| Amphetamine-type Substance Use Disorder, Severe | F15.20 | F15.20 |
| Amphetamine-type Substance Use Disorder, Severe, in early or sustained remission | F15.20 | F15.21 |
| Other or Unspecified Stimulant Use Disorder, Mild | F15.10 | F15.10 |
| Other or Unspecified Stimulant Use Disorder, Mild, In early or sustained remission | F15.10 | F15.11 |
| Other or Unspecified Stimulant Use Disorder, Moderate | F15.20 | F15.20 |

| Disorder | DSM-5 Recommended ICD-10-CM Code for use through September 30, 2017 | DSM-5 Recommended ICD-10-CM Code for use beginning October 1, 2017 |
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| Other or Unspecified Stimulant Use Disorder, Moderate, In early or sustained remission | F15.20 | F15.21 |
| Other or Unspecified Stimulant Use Disorder, Severe | F15.20 | F15.20 |
| Other or Unspecified Stimulant Use Disorder, Severe, In early or sustained remission | F15.20 | F15.21 |
| Phencyclidine Use Disorder, Mild | F16.10 | F16.10 |
| Phencyclidine Use Disorder, Mild, in early or sustained remission | F16.10 | F16.11 |
| Phencyclidine Use Disorder, Moderate | F16.20 | F16.20 |
| Phencyclidine Use Disorder, Moderate, in early or sustained remission | F16.20 | F16.21 |
| Phencyclidine Use Disorder, Severe | F16.20 | F16.20 |
| Phencyclidine Use Disorder, Severe, in early or sustained remission | F16.20 | F16.21 |
| Other Hallucinogen Use Disorder, Mild | F16.10 | F16.10 |
| Other Hallucinogen Use Disorder, Mild, in early or sustained remission | F16.10 | F16.11 |
| Other Hallucinogen Use Disorder, Moderate | F16.20 | F16.20 |
| Other Hallucinogen Use Disorder, Moderate, in early or sustained remission | F16.20 | F16.21 |

| Disorder | DSM-5 Recommended ICD-10-CM Code for use through September 30, 2017 | DSM-5 Recommended ICD-10-CM Code for use beginning October 1, 2017 |
|--|--|---|
| Other Hallucinogen Use Disorder, Severe | F16.20 | F16.20 |
| Other Hallucinogen Use Disorder, Severe, in early or sustained remission | F16.20 | F16.21 |
| Tobacco Use Disorder, Moderate | F17.200 | F17.200 |
| Tobacco Use Disorder, Moderate, in early or sustained remission | F17.200 | F17.201 |
| Tobacco Use Disorder, Severe | F17.200 | F17.200 |
| Tobacco Use Disorder, Severe, in early or sustained remission | F17.200 | F17.201 |
| Inhalant Use Disorder, Mild | F18.10 | F18.10 |
| Inhalant Use Disorder, Mild, in early or sustained remission | F18.10 | F18.11 |
| Inhalant Use Disorder, Moderate | F18.20 | F18.20 |
| Inhalant Use Disorder, Moderate, in early or sustained remission | F18.20 | F18.21 |
| Inhalant Use Disorder, Severe | F18.20 | F18.20 |
| Inhalant Use Disorder, Severe, in early or sustained remission | F18.20 | F18.21 |
| Other (or Unknown) Substance Use Disorder, Mild | F19.10 | F19.10 |
| Other (or Unknown) Substance Use Disorder, Mild, in early or sustained remission | F19.10 | F19.11 |
| Other (or Unknown) Substance Use Disorder, Moderate | F19.20 | F19.20 |

| Disorder | DSM-5 Recommended ICD-10-CM Code for use through September 30, 2017 | DSM-5 Recommended ICD-10-CM Code for use beginning October 1, 2017 |
|--|--|---|
| Other (or Unknown) Substance Use Disorder, Moderate, in early or sustained remission | F19.20 | F19.21 |
| Other (or Unknown) Substance Use Disorder, Severe | F19.20 | F19.20 |
| Other (or Unknown) Substance Use Disorder, Severe, in early or sustained remission | F19.20 | F19.21 |
| Avoidant/Restrictive Food Intake Disorder | F50.89 | F50.82 |

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 [202-559-3900](tel:202-559-3900)  apa@psych.org

EXHIBIT E

Medication and Counseling Treatment

Medication-assisted treatment (MAT) is the use of medications with counseling and behavioral therapies to treat substance use disorders and prevent opioid overdose.

Medication-Assisted Treatment (MAT) is the use of medications, in combination with counseling and behavioral therapies (<https://www.samhsa.gov/counseling-behavioral-therapies>) , to provide a “whole-patient” approach to the treatment of substance use disorders. Research shows that a combination of medication and therapy can successfully treat these disorders, and for some people struggling with addiction, MAT can help sustain recovery. Learn about many of the substance use disorders (<http://www.samhsa.gov/disorders/substance-use>) that MAT is designed to address.

MAT is primarily used for the treatment of addiction to opioids such as heroin and prescription pain relievers that contain opiates. The prescribed medication operates to normalize brain chemistry, block the euphoric effects of alcohol and opioids, relieve physiological cravings, and normalize body functions without the negative effects of the abused drug. Medications used in MAT (<https://www.samhsa.gov/medications-used-in-mat>) are approved by the Food and Drug Administration (FDA), and MAT programs are clinically driven and tailored to meet each patient’s needs. Combining medications used in MAT with anxiety treatment medications can be fatal.

Types of anxiety treatment medications include derivatives of Benzodiazepine, such as Xanax or valium.

(<https://www.samhsa.gov>) **Opioid Treatment Programs (OTPs)**

Opioid treatment programs (OTPs) provide MAT for individuals diagnosed with an opioid use disorder (<http://www.samhsa.gov/disorders/substance-use#opioid-use-disorder>) . OTPs also provide a range of services to reduce, eliminate, or prevent the use of illicit drugs, potential criminal activity, and/or the spread of infectious disease. OTPs focus on improving the quality of life of those receiving treatment.

OTPs must be accredited by a SAMHSA-approved accrediting body (<http://www.samhsa.gov/medication-assisted-treatment/legislation-regulations-guidelines/oversight>) and certified by SAMHSA. The Division of Pharmacologic Therapies (DPT) (<http://www.samhsa.gov/medication-assisted-treatment/treatment/about-dpt>) , part of the SAMHSA Center for Substance Abuse Treatment (CSAT) (<http://www.samhsa.gov/about-us/who-we-are/offices-centers/csac>) , oversees accreditation standards and certification processes for OTPs. Learn more about the certification of OTPs (<http://www.samhsa.gov/medication-assisted-treatment/opioid-treatment-programs>) and SAMHSA’s oversight of OTP Accreditation Bodies (<http://www.samhsa.gov/medication-assisted-treatment/legislation-regulations-guidelines/oversight>) .

Federal law requires patients who receive treatment in an OTP to receive medical, counseling, vocational, educational, and other assessment and treatment services, in addition to prescribed medication. The law allows MAT professionals to provide treatment and services in a range of settings, including hospitals, correctional facilities, offices, and remote clinics. Learn more about the legislation, regulations, and guidelines (<http://www.samhsa.gov/medication-assisted-treatment/statutes-regulations-guidelines>) that govern OTPs.

As of 2015, OTPs were located in every U.S. state except North Dakota and Wyoming. The District of Columbia and the territories of Puerto Rico and the Virgin Islands also had OTPs in operation.

(<https://www.samhsa.gov>) **Counseling and Behavioral Therapies**

Under federal law, MAT patients must receive counseling, which could include different forms of behavioral therapy. These services are required along with medical, vocational, educational, and other assessment and treatment services. Learn more about these treatments for substance use disorders (<http://www.samhsa.gov/treatment/substance-use-disorders>) .

MAT Effectiveness

In 2013, an estimated 1.8 million people had an opioid use disorder (<http://www.samhsa.gov/disorders/substance-use#opioid-use-disorder>) related to prescription pain relievers, and about 517,000 had an opioid use disorder related to heroin use. MAT has proved to be clinically effective and to significantly reduce the need for inpatient detoxification services for these individuals. MAT provides a more comprehensive, individually tailored program of medication and behavioral therapy. MAT also includes support services that address the needs of most patients.

The ultimate goal of MAT is full recovery (<http://www.samhsa.gov/recovery>) , including the ability to live a self-directed life. This treatment approach has been shown to:

- Improve patient survival
 - Increase retention in treatment
 - Decrease illicit opiate use and other criminal activity among people with substance use disorders
 - Increase patients' ability to gain and maintain employment
-
- Improve birth outcomes among women who have substance use disorders and are pregnant

Research also shows that these medications and therapies can contribute to lowering a person's risk of contracting HIV or hepatitis C by reducing the potential for relapse. Learn more about substance misuse and how it relates to HIV, AIDS, and Viral Hepatitis (<http://www.samhsa.gov/node/1189>) . Learn more about common comorbidities (<http://www.samhsa.gov/medication-assisted-treatment/treatment/common-comorbidities>) that occur with substance use disorders.

Unfortunately, MAT is greatly underused. For instance, according to SAMHSA's Treatment Episode Data Set (TEDS) 2002-2010 (<http://store.samhsa.gov/product/2000-2010-national-admissions-to-substance-abuse-treatment-services/sma12-4701>) , the proportion of heroin admissions with treatment plans that included receiving medication-assisted opioid therapy fell from 35% in 2002 to 28% in 2010. The slow adoption of these evidence-based treatment options for alcohol and opioid dependence is partly due to misconceptions about substituting one drug for another. Discrimination against MAT patients is also a factor, despite state and federal laws clearly prohibiting it. Other factors include lack of training for physicians and negative opinions toward MAT in communities and among health care professionals.

MAT and Patient Rights

SAMHSA's Partners for Recovery Initiative (<http://www.samhsa.gov/partners-for-recovery>) produced a brochure designed to assist MAT patients and to educate and inform others.

Under the Confidentiality Regulation, 42 Code of Federal Regulations (CFR) 2 (<http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=b7e8d29be4a2b815c404988e29c06a3e&rgn=div5&view=text&node=42.1.0.1.1.2&idno=42>) , personally identifiable health information

relating to substance use and alcohol treatment must be handled with a higher degree of confidentiality than other medical information.

(<https://www.samhsa.gov>) **Medications Used in MAT**

FDA has approved several different medications to treat opioid addiction and alcohol dependence.

A common misconception associated with MAT is that it substitutes one drug for another. Instead, these medications relieve the withdrawal symptoms and psychological cravings that cause chemical imbalances in the body. MAT programs provide a safe and controlled level of medication to overcome the use of an abused opioid. And research has shown that when provided at the proper dose, medications used in MAT have no adverse effects on a person's intelligence, mental capability, physical functioning, or employability.

Medications used in MAT for opioid treatment can only be dispensed through a SAMHSA-certified OTP. Some of the medications used in MAT are controlled substances due to their potential for misuse. Drugs, substances, and certain chemicals used to make drugs are classified by the Drug Enforcement Administration (DEA) (<http://www.dea.gov/>) into five distinct categories, or schedules, depending upon a drug's acceptable medical use and potential for misuse. Learn more about DEA drug schedules (<http://www.dea.gov/druginfo/ds.shtml>) .

Opioid Dependency Medications

Methadone, buprenorphine, and naltrexone are used to treat opioid dependence and addiction to short-acting opioids such as heroin, morphine, and codeine, as well as semi-synthetic opioids like oxycodone and hydrocodone. People may safely take medications used in MAT for months, years, several years, or even a lifetime. Plans to stop a medication must always be discussed with a doctor.

Methadone

Methadone tricks the brain into thinking it's still getting the abused drug. In fact, the person is not getting high from it and feels normal, so withdrawal doesn't occur. Learn more about methadone (<http://www.samhsa.gov/medication-assisted-treatment/treatment/methadone>) .

Pregnant or breastfeeding women must inform their treatment provider before taking methadone. It is the only drug used in MAT approved for women who are pregnant or breastfeeding. Learn more about pregnant or breastfeeding women and methadone (<http://www.samhsa.gov/medication-assisted-treatment/treatment/methadone#pregnant-or-breastfeeding-women>) .

Buprenorphine

Like methadone, buprenorphine suppresses and reduces cravings for the abused drug. It can come in a pill form or sublingual tablet that is placed under the tongue. Learn more about buprenorphine (<http://www.samhsa.gov/medication-assisted-treatment/treatment/buprenorphine>) .

Naltrexone

Naltrexone works differently than methadone and buprenorphine in the treatment of opioid dependency. If a person using naltrexone relapses and uses the abused drug, naltrexone blocks the euphoric and sedative effects of the abused drug and prevents feelings of euphoria. Learn more about naltrexone (<http://www.samhsa.gov/medication-assisted-treatment/treatment/naltrexone>) .

Opioid Overdose Prevention Medication

FDA approved naloxone (<http://www.samhsa.gov/medication-assisted-treatment/treatment/naloxone>) , an injectable drug used to prevent an opioid overdose (<http://www.samhsa.gov/medication-assisted-treatment/treatment/opioid-overdose>) . According to the World Health Organization (WHO), naloxone is one of a number of medications considered essential to a functioning health care system (http://www.who.int/topics/essential_medicines/en/) .

Alcohol Use Disorder Medications

Disulfiram, acamprosate, and naltrexone are the most common drugs used to treat alcohol use disorder. None of these drugs provide a cure for the disorder, but they are most effective in people who participate in a MAT program. Learn more about the impact of alcohol (<http://www.samhsa.gov/atod/alcohol>) misuse.

Disulfiram

Disulfiram is a medication that treats chronic alcoholism. It is most effective in people who have already gone through detoxification or are in the initial stage of abstinence. This drug is offered in a tablet form and is taken once a day. Disulfiram should never be taken while intoxicated and it should not be taken for at least 12 hours after drinking alcohol. Unpleasant side effects (nausea, headache, vomiting, chest pains, difficulty breathing) can occur as soon as ten minutes after drinking even a small amount of alcohol and can last for an hour or more.

Acamprosate

Acamprosate is a medication for people in recovery who have already stopped drinking alcohol and want to avoid drinking. It works to prevent people from drinking alcohol, but it does not prevent withdrawal symptoms after people drink alcohol. It has not been shown to work in people who continue drinking alcohol, consume illicit drugs, and/or engage in prescription drug misuse and abuse (<http://www.samhsa.gov/topics/prescription-drug-misuse-abuse>) . The use of acamprosate typically begins on the fifth day of abstinence, reaching full effectiveness in five to eight days. It is offered in tablet form and taken three times a day, preferably at the same time every day. The medication's side effects may include diarrhea, upset stomach, appetite loss, anxiety, dizziness, and difficulty sleeping.

Naltrexone

When used as a treatment for alcohol dependency, naltrexone blocks the euphoric effects and feelings of intoxication. This allows people with alcohol addiction to reduce their drinking behaviors enough to remain motivated to stay in treatment, avoid relapses, and take medications. Learn more about how naltrexone (<http://www.samhsa.gov/medication-assisted-treatment/treatment/naltrexone#naltrexone-for-alcohol>) is used to treat alcohol dependency.

Access Medication for the Treatment of Alcohol Use Disorder: A Brief Guide – 2015 (<http://store.samhsa.gov/product/sma15-4907>) to learn more about MAT for alcohol use disorder.

MAT Medications and Child Safety

It's important to remember that if medications are allowed to be kept at home, they must be locked in a safe place away from children. Methadone in its liquid form is colored and is sometimes mistaken for a soft drink. Children who take medications used in MAT may overdose and die.

Find Treatment

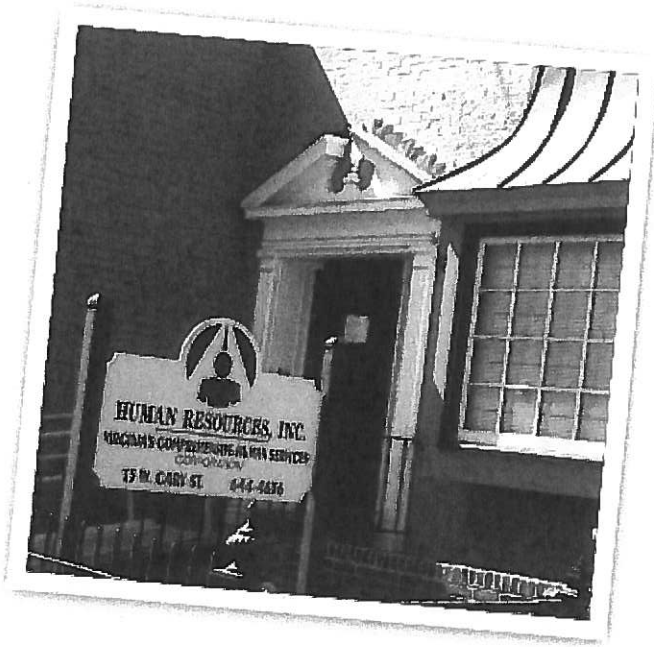
- Opioid Treatment Program Directory (<http://dpt2.samhsa.gov/treatment/directory.aspx>)
- SAMHSA's Behavioral Health Treatment Services Locator (<http://findtreatment.samhsa.gov/>)
- SAMHSA's Buprenorphine Treatment Physician Locator (<http://www.samhsa.gov/medication-assisted-treatment/physician-program-data/treatment-physician-locator>)

Additional Resources

Access information about SAMHSA's federal partners, associations, and other support organizations (<http://www.samhsa.gov/medication-assisted-treatment/training-materials-resources/support-organizations>) that offer MAT-related resources for consumers and substance use treatment professionals.

EXHIBIT F

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Opioid Treatment Program

Our Opioid Treatment Program (OTP), located in downtown Richmond, Virginia is fully accredited by CARF International (for accreditation standards of care, please visit: www.carf.org). The OTP was carefully designed to maximally meet the patients' treatment needs within a reasonable timeframe, allowing the patient time to deal with present problems; establish a new lifestyle; enjoy life free from dependence on licit or illegal drugs; and enjoy a better quality of life in their chosen environment.

OPIOID TREATMENT PROGRAM (Outpatient)

- *Methadone Maintenance and Detox*
- *Buprenorphine Maintenance and Detox*
- *Counseling: Individual, Group, and Family*
- *Psychiatric: Assessments and Consultation*
- *Medical Services: Physical Examinations, Lab work, Consultations and Referrals*
- *Hepatitis Vaccinations and Education*
- *HIV Pre/Post Testing & Counseling*
- *Methadone Anonymous Group*
- *Vocational Referrals*
- *Assessments & Referrals*
- *Acupuncture*
- *GED Preparation*
- *Computer Classes*

Hours of Operation

- *HRI's Opioid Treatment Program is open 7 days/week*
- *Monday through Friday 5:30 am – 5:00 pm, Saturday and Sunday 6:00 am – 10:00 am*
- *Admission Days: Monday, Wednesday, Thursday*

Address

- *15 W. Cary Street • Richmond, VA 23220 • (804) 644-4636 • [fax] (804) 648-4301*
- *[View photos](#) of HRI's Opioid Treatment Program facility.*

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