


<b>F R O M</b>	<b>Name &amp; Title</b>	Dr. Leana Wen, Commissioner <i>Leana Wen</i>	<b>Health Department</b>  <b>AGENCY REPORT</b>	
	<b>Agency Name &amp; Address</b>	Health Department 1001 E. Fayette Street Baltimore, Maryland 21201		
	<b>Subject</b>	18-0184 – Zoning – Use Regulation – Health-Care Clinics		

**To: President and Members  
of the City Council  
c/o 409 City Hall**

**March 29, 2018**

The Baltimore City Health Department (BCHD) is pleased to have the opportunity to review #18-0184 – Zoning – Use Regulation – Health-Care Clinics. The purpose of this legislation is to revise the zoning code to require conditional use approval for health-care clinics by the City Council and Mayor. For the following reasons, BCHD is **opposed** to Council Bill #18-0184.

Public health best practices dictate that patients have accessibility to care in their respective communities. 18-0184 negatively affects accessibility in two ways. First, the bill makes it easier for health care clinics to situate themselves in more expensive C-4 and C-5 zoning districts by making them a permitted use. This will actually create a disincentive for dentist offices, urgent care facilities, ambulatory surgery centers, etc. to locate in disadvantaged neighborhoods where commercial districts are generally restricted to C-1 through C-3 zoning and access to care is already limited.

Second, 18-0184 adds a discretionary component to the zoning process, which may discourage health care providers from locating in certain communities due to possible political implications. While community input and engagement are critical to a well-planned and vibrant city, many health clinics are already choosing their locations based mostly on community need. This bill may create situations wherein community associations are pitted against the needs of individual community members and vice versa.

In the case of individuals suffering from opioid use disorder, research shows that community-based medication-assisted treatment is the gold standard. Said treatment can stem overdoses and save lives if delivered in a timely fashion.<sup>1</sup> This is why medication-assisted treatment facilities should be situated in communities where the need is greatest, regardless of whether a minority of community members oppose their presence. Moreover, according to Behavioral Health System Baltimore,<sup>2</sup> 24,887 individuals are suffering from opioid use disorder in Baltimore City, whereas

<sup>1</sup> Sordo L, Barrio G, Bravo MJ, Indave BI, Degenhardt L, Wiessing L, et al. Mortality risk during and after opioid substitution treatment: systematic review and meta-analysis of cohort studies. *bmj*. 2017 Apr 26;357:j1550. pmid:28446428

<sup>2</sup> Behavioral Health System Baltimore, "Substance Use Disorder Treatment Capacity in Baltimore City." [http://www.bhsbaltimore.org/site/wp-content/uploads/2013/08/OTP-Capacity-Report\\_01\\_27\\_17\\_FINAL.pdf](http://www.bhsbaltimore.org/site/wp-content/uploads/2013/08/OTP-Capacity-Report_01_27_17_FINAL.pdf)

treatment facilities in the City can only accommodate 17,587 individuals. This capacity deficit is alarming because of the efficacy of delivering timely and readily-available treatment.

There are additional considerations beyond the life-saving capabilities of well-situated medication-assisted treatment facilities. According to the National Institutes of Health, every one dollar invested in addiction treatment saves society \$12.<sup>3</sup> Additionally, research shows that crime surrounding medication-assisted treatment facilities is statistically no different than most corner stores.<sup>4</sup> In fact, these facilities can stem crime as research also shows that individuals that have successfully completed opioid treatment are less likely to engage in criminal behavior.<sup>5</sup>

Finally, preventing the establishment of medication-treatment facilities, as well as many other health-care clinics, through land use protocol may run afoul of the Americans with Disabilities Act (“ADA”). In *Smith Berch, Inc. v. Baltimore County, Maryland*, a judge granted summary judgment to the plaintiff because requiring that a proposed methadone treatment program undergo a public hearing to obtain a zoning permit violated the ADA.<sup>6</sup> A similar situation and result occurred in *Start, Inc. v. Baltimore County, Maryland* – it was noted that the ADA’s Title II prohibits a discrimination in services, programs, or activities of a public entity.<sup>7</sup>

Altogether, 18-0184 has the possibility for many negative outcomes from limiting access to health care in poorer communities to causing spikes in crime to a possible civil rights lawsuit. The Health Department insists that health care clinics remain a permitted use throughout the City’s zoning code, and urges an **unfavorable** report on Council Bill #18-0184.

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<sup>3</sup> National Institute on Drug Abuse. Principles of drug addiction treatment: A research-based guide. 3rd ed. Bethesda (MD): National Institute on Drug Abuse, National Institutes of Health; 2012.

<sup>4</sup> Furr-Holden CD, Milam AJ, Nesoff ED, Johnson RM, Fakunle DO, Jennings JM, Thorpe Jr RJ. “Not in my back yard: a comparative analysis of crime around publicly funded drug treatment centers, liquor stores, convenience stores, and corner stores in one Mid-Atlantic City. *Journal of studies on alcohol and drugs*.” 2016 Jan 8;77(1):17-24.

<sup>5</sup> Marsch, Lisa A. “The efficacy of methadone maintenance interventions in reducing illicit opiate use, HIV risk behavior and criminality: a meta-analysis.” *Addiction* 93.4 (1998): 515-532.

<sup>6</sup> *Smith Berch, Inc. v. Baltimore County, Md.*, 115 F.Supp.2d 520 (2000)

<sup>7</sup> *Start, Inc. v. Baltimore County, Md.*, 295 F.Supp.2d 569 (2003)