

# HOUSE BILL REPORT

## ESHB 1768

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### As Amended by the Senate

**Title:** An act relating to modernizing substance use disorder professional practice.

**Brief Description:** Concerning substance use disorder professional practice.

**Sponsors:** House Committee on Health Care & Wellness (originally sponsored by Representatives Davis, Macri, Jinkins, Ormsby, Slatter and Tharinger).

#### **Brief History:**

##### **Committee Activity:**

Health Care & Wellness: 2/15/19, 2/22/19 [DPS].

##### **Floor Activity:**

Passed House: 3/5/19, 98-0.

Senate Amended.

Passed Senate: 4/17/19, 48-0.

#### **Brief Summary of Engrossed Substitute Bill**

- Changes the name of the profession of "chemical dependency professionals" to "substance use disorder professionals."
- Removes references to the goal of chemical dependency counseling as assisting clients in the achievement and maintenance of abstinence from alcohol and drug use.
- Limits the amount of time that a substance use disorder professional or substance use disorder professional trainee must spend in a substance abuse monitoring program to one year.
- Prohibits a facility that cares for vulnerable adults from automatically denying employment to an applicant for a position as a substance use disorder professional or substance use disorder professional trainee if at least one year has passed since a conviction, the conviction was committed as a result of the applicant's substance use or untreated mental health symptoms, and the applicant has been in recovery for at least one year.

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### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Chambers, Davis, DeBolt, Harris, Jinkins, Maycumber, Riccelli, Robinson, Stonier, Thai and Tharinger.

**Staff:** Chris Blake (786-7392).

### **Background:**

#### Chemical Dependency Professionals.

Chemical dependency professionals are health care providers who assist persons to develop and maintain abstinence from alcohol and other drugs. The Department of Health certifies chemical dependency professionals. To become certified, a person must meet specific education, examination, and experience requirements.

In their practice, chemical dependency professionals use the core competencies of chemical dependency counseling which include the assessment and diagnosis of chemical dependency, chemical dependency treatment planning and referral, patient and family education, individual and group counseling, relapse prevention counseling, and case management. These activities are to be performed with the stated goal of assisting patients in achieving and maintaining abstinence from alcohol and drugs and developing independent support systems.

#### Substance Use Disorders.

In 2013 the American Psychiatric Association released the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM 5). The DSM 5 replaced the terms "substance abuse" and "substance dependence" with the single term "substance use disorder." The term "substance use disorder" includes a scale of subcategories of mild, moderate, and severe for defining the extent of the person's condition.

#### Substance Abuse Monitoring Programs.

A disciplining authority may refer a licensee to a substance abuse monitoring program in lieu of formal discipline if the disciplining authority determines that unprofessional conduct is the product of substance abuse. The licensee must consent to the referral and the referral may include probationary conditions. If the licensee does not consent to the referral or fails to meet the requirements of the program, the disciplining authority may take formal disciplinary action against the licensee.

There are four substance abuse monitoring programs in Washington for credentialed health care providers. Each program serves specific professions or groups of professions. Although the programs do not provide substance use disorder treatment, they contract with and monitor health care providers for compliance with treatment and recovery goals. The contract includes random drug testing and worksite monitoring to ensure a safe return to practice. Some professions pay a fee to cover program expenses, while other professions require the individual to bear the expenses of the program.

#### Disqualifying Crimes.

Agencies, facilities, and individuals who provide care to vulnerable adults may not allow persons to work in a position that may involve unsupervised access to minors or vulnerable

adults if the person has been convicted of or has a pending charge for certain disqualifying crimes. In some cases a person will not be automatically disqualified from employment if a designated number of years have passed since the date of conviction for the disqualifying crime. In those instances, the person may be allowed to work in a position with access to minors and vulnerable adults depending on the results of a character, competence, and suitability review.

### **Summary of Engrossed Substitute Bill:**

Chemical dependency professionals are renamed "substance use disorder professionals" and chemical dependency professional trainees are renamed "substance use disorder professional trainees." Persons holding the titles of "chemical dependency professional" or "chemical dependency professional trainee" are considered to have the titles of "substance use disorder professional" or "substance use disorder professional trainee," respectively, until the person's certification expires or is renewed. Statutory references to chemical dependency professionals are changed accordingly. The term "chemical dependency" is changed to "substance use disorder" in the Substance Use Disorder Professionals' Practice Act.

References to the purpose of substance use disorder counseling as assisting clients with the achievement and maintenance of abstinence from alcohol and drug use are removed and replaced with the purpose of assisting individuals with substance use disorder in their recovery. The term "recovery" is defined as a process of change through which individuals improve their health and wellness, live self-directed lives, and strive to reach their full potential

The amount of time that a person who is or is applying to be a substance use disorder professional or substance use disorder professional trainee must spend in the voluntary substance abuse monitoring program is limited to the amount of time necessary for the person to achieve one year in recovery. If the person has at least one year in recovery from a substance use disorder, the person may not be required to participate in the substance abuse monitoring program.

Facilities that care for vulnerable adults are prohibited from automatically denying employment to an applicant for a position as a substance use disorder professional or substance use disorder professional trainee if: (1) at least one year has passed since the most recent conviction and the date of application; (2) the offense was committed as a result of the applicant's substance use or untreated mental health symptoms; and (3) the applicant has been in recovery for at least one year from a mental health disorder or substance use disorder, whether through abstinence or stability on medication-assisted therapy.

### **EFFECT OF SENATE AMENDMENT(S):**

The Senate amendment establishes the health profession of co-occurring disorder specialist for persons who have been issued an enhancement by the Secretary of Health that certifies the person to provide certain substance use disorder services. The Department of Health (Department) must develop training standards for the creation of the co-occurring disorder specialist enhancement. The enhancement may be added to the license of a psychologist, independent clinical social worker, marriage and family therapist, mental health counselor, or

agency-affiliated counselor with at least a master's degree in counseling or a related field and at least two years of experience in treating persons with mental illness or emotional disturbance. Applicants for the enhancement must: (1) pass an approved examination; (2) meet training standards that include 60 hours of instruction in specific subjects related to substance use disorders; and (3) complete either 80 hours of supervised experience, for applicants with less than five years of experience, or 40 hours of supervised experience for applicants with five or more years of experience. A person with a co-occurring disorder specialist enhancement may provide substance use disorder counseling services equal in scope to those provided by substance use disorder professionals. Co-occurring disorder specialists may only provide substance use disorder counseling as an employee of an agency that provides counseling services, in a federally-qualified health center, or in a hospital. Following an initial intake or assessment, a co-occurring disorder specialist may only provide substance use disorder treatment to clients who are also diagnosed with a mental health disorder.

The Senate amendment requires the Department of Health, from July 1, 2020, until July 1, 2025, to:

- contract with an educational program to offer the training for obtaining a co-occurring disorder specialist enhancement at a reduced cost at least four times per year in person, as well as online;
- contract with an entity to provide a telephonic consultation service to assist chemical dependency professionals and co-occurring disorder specialists with the diagnosis and treatment of patients with co-occurring behavioral health disorders; and
- identify supervisors who are trained and available to supervise those seeking supervised experience to receive a co-occurring disorder specialist enhancement.

The Senate amendment prohibits the Department of Health from automatically denying an applicant for certification as a substance use disorder professional or substance use disorder professional trainee based on a conviction history that includes simple assault, assault in the fourth degree, theft in the second degree, or forgery if: (1) at least one year has passed since the most recent conviction and the date of application for employment; (2) the offense was committed as a result of the applicant's substance use or untreated mental health symptoms; and (3) the applicant has at least one year in recovery from a substance use disorder or in recovery from mental health challenges.

The Senate amendment reduces the total number of supervised experience hours for an applicant for a license to become a psychologist if the applicant has practiced as a certified chemical dependency counselor for at least three years in the previous 10 years by three months. The total number of supervised experience hours for an applicant for a license to become a social worker, marriage and family therapist, or mental health counselor is reduced by 10 percent if the applicant has practiced as a certified chemical dependency counselor for at least three years in the previous 10 years.

The Senate amendment directs the Department of Health to conduct a sunrise review to evaluate the need for the creation of a bachelor's level behavioral health professional credential that includes competencies for the treatment of both substance use disorders and mental health disorders.

The Senate amendment requires approved supervision for substance use disorder professional training to be the same for all applicants and must allow approved supervision to be provided by a licensed social worker, a licensed mental health practitioner who has completed alternative training requirements, or a co-occurring disorder specialist.

The Senate amendment changes the definition of "gravely disabled," as used in the Involuntary Treatment Act and children's mental health context, to relate to "behavioral health disorders," rather than "mental health disorders," and to apply when a person manifests severe deterioration "from safe behavior," rather than severe deterioration "in routine functioning." The term "severe deterioration from safe behavior" is defined as a situation in which a person will, if not treated, suffer or continue to suffer from severe and abnormal mental, emotional, or physical distress which is associated with significant impairment of judgment, reason, or behavior.

The definition of the term "likelihood of serious harm" is changed to include situations in which the minor has threatened the physical safety of another and has a history of one or more violent acts. The term "violent act" is added to the children's mental health provisions to mean behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to property.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after the adjournment of the session in which the bill is passed, except for section 12, relating to training in suicide assessment, treatment, and management, which takes effect on August 1, 2020, and section 18, relating to the examination and evaluation of a minor approved for inpatient admission, which takes effect on July 1, 2026.

**Staff Summary of Public Testimony:**

(In support) The terms "chemical" and "dependence" are stigmatizing and this bill updates that terminology. This change recognizes substance use disorder as the brain disease that it is. There will be language related to the goal of substance use disorder treatment which has to do with a self-directed process that is person-centered. Some of the language from House Bill 1529 should be incorporated into this bill to align the subject matter.

(Opposed) None.

**Persons Testifying:** Representative Davis, prime sponsor; Susie Tracy, Alcohol and Addiction Programs of Washington; and Michael Transue, Seattle Drug and Narcotic Treatment Center.

**Persons Signed In To Testify But Not Testifying:** None.