

# SENATE BILL REPORT

## SHB 1529

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As of March 25, 2019

**Title:** An act relating to removing barriers for agency affiliated counselors practicing as peer counselors.

**Brief Description:** Removing barriers for agency affiliated counselors practicing as peer counselors.

**Sponsors:** House Committee on Health Care & Wellness (originally sponsored by Representatives Davis, Corry, Frame, Kloba, Doglio and Ormsby).

**Brief History:** Passed House: 3/01/19, 94-0.

**Committee Activity:** Behavioral Health Subcommittee to Health & Long Term Care: 3/15/19.

### Brief Summary of Bill

- Prohibits the Department of Health from requiring an applicant for a position as a peer counselor to participate in a voluntary substance abuse monitoring program as a condition of registration as an agency affiliated counselor if the person has at least one year of recovery from a substance use disorder.
- Prohibits an agency or facility that serves vulnerable adults from automatically denying the application of a person to work as a peer counselor based on a conviction for assault 4, prostitution, theft 2 or 3, or forgery if the offense was the result of a substance use disorder or mental illness and the person has at least one year of recovery.

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### SENATE COMMITTEE ON BEHAVIORAL HEALTH SUBCOMMITTEE TO HEALTH & LONG TERM CARE

**Staff:** Kevin Black (786-7747)

**Background:** Agency-Affiliated Counselors. An agency-affiliated counselor (AAC) is a person employed by an agency to engage in counseling who has registered or submitted an application for registration with the state of Washington. An AAC must pass a background check and have at least a bachelor's degree in a counseling-related field and pass an

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examination in risk assessment, ethics, and appropriate screening and referral. An AAC may work for up to 60 days while registration is pending, provided that an application is submitted within seven days of employment. A person who is employed by an agency and has attained an associate's degree in a counseling field may apply to register as a certified advisor. For the purposes of this section, "agency" includes Indian tribes, counties, state agencies, and juvenile courts.

Peer Counselors. The Health Care Authority certifies peer counselors who are persons who share life experiences with persons in recovery and successfully complete a 40-hour training course and exam. Peer counselors are employed by behavioral health agencies that are approved to employ peer counselors and register as AACs. Once employed and registered, peer counselors work under the supervision of mental health professionals to assist persons in recovery within their scope of practice.

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.

Washington Recovery and Monitoring Program. The Washington Recovery and Monitoring Program (WRAMP) is the substance use monitoring program for AACs, among other health care professions, and is operated by the Department of Health (DOH). WRAMP applies to licensed or certified professionals who are referred following a complaint or investigation, professionals who self-refer to the program, and applicants for a license or certification who disclose a history of substance use disorder during the application process. The WRAMP requires participants to obtain a chemical dependency evaluation at their expense, the cost of which may in some cases be covered by insurance. If the evaluation determines that the person has a mild substance use disorder, WRAMP requires three years of participation, with credit applied for any time spent in continuous recovery before the evaluation. If the evaluation determines that the person has a moderate or severe substance use disorder, the WRAMP requires five years of participation, with credit applied for any time spent in continuous recovery before the evaluation. During participation in WRAMP, the person must check in daily with the program during workdays and be subject to random urinalysis, follow any other treatment recommendations, abide by certain restrictions, and participate in a weekly approved peer support group. The cost of urinalysis, the weekly support group, and any other costs must be borne by the participant.

Disqualifying Crimes. Agencies, facilities, and individuals who provide care to vulnerable adults may not employ a person to work in a position that may involve unsupervised access to vulnerable adults if the person has been convicted of 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. A person who has a prior conviction for assault 4, prostitution, or theft 3 may be considered for such employment after three years have passed since the last date of conviction. A person who has a prior conviction for theft 2 or forgery may be considered for such employment after five years have passed from the last date of conviction.

**Summary of Bill:** DOH is prohibited from requiring an applicant for registration as an AAC who practices or intends to practice as a peer counselor for a facility, federally recognized Indian tribe, or county, to participate in WRAMP if the applicant has at least one year in recovery from a substance use disorder. If the applicant has less than one year in recovery, DOH may require the applicant to participate in WRAMP for only the amount of time necessary to achieve one year in recovery.

An agency or facility that provides care and treatment to vulnerable adults may not automatically deny an application for employment as an AAC intending to practice as a peer counselor based upon the applicant's conviction history for assault 4, prostitution, theft 2 or 3, or forgery if:

- at least one year has passed since the applicant's most recent conviction;
- the offense was committed as a result of the applicant's substance use or untreated mental health symptoms; and
- the applicant is at least one year in recovery from a substance use disorder, whether through abstinence, or stability on medication-assisted therapy, or in recovery from mental health challenges.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: The best weapon we have to fight the opioid epidemic is the people who have survived it. They are compassionate, loving, and brave people with impeccable integrity. We have a massive workforce crisis in the behavioral health field. This bill addresses two barriers identified for peers: length of recovery and involvement in the justice system. The life history that qualifies you for the job disqualifies you from doing the job. The expenses of WRAMP are high and not covered by insurance. They are too much to bear for what is often a minimum-wage job. Recovery happens and these are the individuals who lead the way. I have trained over 600 people to become peer counselors or recovery counselors. Over 200 peers are employed at least part-time in Pierce County. Community is one of four domains that support recovery; it requires connections with people. This bill reduces barriers. Exceptions on a case-by-case basis do not work in practice. When I was addicted to opiates in my thirties, I was convicted of a theft-related

felony. I was hired for a peer-bridger job but DOH refused to certify me as an AAC despite four years elapsing since my last conviction and the start of my recovery. These disqualifications eliminate candidates who are hungry to make a difference, who are freshly familiar with what peers need, and who have fought hard to overcome their past challenges. I yearn to make a difference and have a heart for service. I am a commercial plumber and a trained recovery coach. The current standards prevent me from obtaining paid employment without paying for WRAMP although I have over three years of recovery. Delays in registration by DOH as an AAC forced me to temporarily stop working. Then I was required to join the WRAMP program, which requires me to attend four meetings a month, restricts me from taking over-the-counter medications, and prohibits me from travel without restrictions. I must call daily to find out if I have to take a random urinalysis at my expense. I am forced to consider leaving the job I love, which pays \$16/hour, because of this burden.

**Persons Testifying:** PRO: Representative Lauren Davis, Prime Sponsor; Jennifer Lasky, citizen; Katie Person, citizen; Nik Muir, citizen; Michael Hardie, POWERsource.

**Persons Signed In To Testify But Not Testifying:** No one.