

SENATE BILL REPORT

ESHB 1768

As Passed Senate - Amended, April 17, 2019

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: Passed House: 3/05/19, 98-0.

Committee Activity: Behavioral Health Subcommittee to Health & Long Term Care: 3/22/19, 3/29/19 [DPA].

Ways & Means: 4/03/19, 4/09/19 [DPA (BH)].

Floor Activity:

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

Brief Summary of Bill (As Amended by Senate)

- Directs DOH to create a co-occurring disorder specialist enhancement for master's level mental health professionals and social workers which allows them to treat clients for substance use disorders who have a co-occurring mental health disorder.
- Modifies definitions of likelihood of serious harm and gravely disabled used for the purpose of involuntary commitment for behavioral health treatment.
- Renames chemical dependency professionals as substance use disorder professionals (SUDPs).
- Expands options for professionals who may provide supervision towards licensure for applicants for certification as an SUDP or co-occurring disorder specialist.
- Changes references to the goal of chemical dependency counseling from assisting clients to achieve and maintain abstinence to assisting clients in their recovery.
- Prohibits the Department of Health (DOH) from requiring an applicant to be an SUDP or substance use disorder trainee to participate in a voluntary

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substance abuse monitoring program after the applicant has one year of recovery from a substance use disorder.

- Prohibits DOH or a facility that cares for vulnerable adults from automatically denying certification or employment as a SUPD based on certain convictions after one year of recovery from a substance use disorder or untreated mental health disorder.
- Directs DOH to conduct a sunrise review to evaluate the need for creation of a bachelor's level behavioral health professional credential.

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

Majority Report: Do pass as amended.

Signed by Senators Dhingra, Chair; Wagoner, Ranking Member; Darneille, Frockt and O'Ban.

Staff: Kevin Black (786-7747)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Mullet, Capital Budget Cabinet; Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Bailey, Becker, Billig, Carlyle, Conway, Darneille, Hasegawa, Hunt, Keiser, Liias, Palumbo, Pedersen, Rivers, Schoesler, Van De Wege, Wagoner and Warnick.

Staff: Travis Sugarman (786-7446)

Background: Chemical Dependency Professionals. Chemical dependency professionals (CDPs) are health care providers who assist persons to develop and maintain abstinence from alcohol and other drugs. The Department of Health (DOH) certifies CDPs. To become certified, a person must have, at a minimum, an associate's degree in human services or a related field. The supervised experience hours required by DOH for certification depend on the applicant's educational background. Applicants with an associates degree must have 2,500 supervised chemical dependency counseling experience hours, applications with a bachelor's degree must have 2000 hours of supervised experience, and applicants with a master's or doctoral degree must have 1500 hours of supervised experience. An alternative pathway allows a person licensed as a social worker, mental health counselor, or marriage and family therapist to complete 1000 hours of supervised experience. An approved supervisor is a certified CDP or a person who meets or exceeds the requirements of a certified CDP in the state of Washington, and who would be eligible to take the examination required for certification; however, under the alternative training pathway an approved supervisor must be a certified CDP.

In their practice, CDPs 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.

Washington Recovery and Monitoring Program. The Washington Recovery and Monitoring Program (WRAMP) is the substance use monitoring program for CDPs, among other health care professions, and is operated by 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 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 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 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. 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 Amended Bill: Substance Use Disorder Professionals. CDPs are renamed SUDPs. All CDPs are considered to hold the title of SUDP. The terms "chemical dependency" and "alcoholic and drug addicted patients" are removed from the code.

DOH is prohibited from requiring an applicant to be an SUDP or substance use disorder trainee (SUDPT) from participating in the 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.

DOH may not automatically deny a person's application for certification as an SUDP or SUDPT, and an agency or facility that provides care and treatment to vulnerable adults may not automatically deny an application of a person for employment as an SUDP or SUDPT, based upon a conviction 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 has at least one year in recovery from a substance use disorder, whether through abstinence or stability on medication-assisted therapy, or in recovery from a mental health disorder.

Approved supervision towards a SUDP or co-occurring disorder specialist enhancement credential must be the same for professionals on the regular and alternative training pathways, and may be provided by a licensed social worker, a licensed mental health professional who has completed the alternative training requirements, or co-occurring disorder specialists.

The orientation of substance use disorder counseling is changed from assisting individuals to achieve and maintain abstinence to assisting individuals in their recovery. A definition of recovery is provided.

Co-Occurring Disorder Specialists. DOH must create a co-occurring disorder specialist enhancement which may be added to the license or registration of the following:

- psychologists;
- independent clinical social workers;
- marriage and family therapists;
- mental health counselors; and
- agency-affiliated counselors who have a master's degree or further advanced degree in counseling or one of the social sciences who has at least two years of experience

gained under the supervision of a mental health professional in direct treatment of persons with mental illness or emotional disturbance.

To obtain this enhancement, the professional must successfully complete:

- sixty hours of training which includes 30 hours of education understanding disease patterns of addiction and the pharmacology of alcohol and other drugs and 30 hours of understanding addiction treatment, relapse prevention, and confidentiality, including American Society of Addiction Medicine criteria;
- forty hours of supervised experience if the professional has over five years experience, or eighty hours of supervised experience if the professional has less than five years of experience; and
- an approved examination based on core competencies of substance use disorder counseling.

A professional with a co-occurring disorder specialist enhancement may provide substance use disorder counseling services that are equal in scope with those provided by SUDPs subject to the following limitations:

- substance use disorder counseling must be provided in the context of employment by an agency that provides counseling services, a federally qualified health center, or a hospital; and
- following initial intake or assessment, substance use disorder counseling must be provided only to clients who have a co-occurring mental illness.

DOH must identify supervisors who are trained and available to supervise co-occurring disorder specialists.

Telephone Consultation Service. Beginning July 1, 2020, subject to amounts appropriated, DOH must contract with a telephone consultation service to help providers who are licensed or certified as SUDPs or co-occurring disorder specialists with the diagnosis and treatment of persons with co-occurring behavioral health disorders.

Supervised Hours for Other Health Professions. DOH must reduce the number of supervised hours required to become a psychologist by three months and the number of supervised hours required for a licensed advanced social worker, licensed independent social worker, licensed mental health counselor, or licensed marriage and family therapist by 10 percent for any applicant who has practiced as a CDP for at least three of the previous ten years.

Sunrise Review for Behavioral Health Professionals. DOH must conduct a sunrise review to evaluate the need for creation of a bachelor's level behavioral health professional credential that includes competencies related to the treatment of both substance use disorders and mental health disorders appropriate to a bachelor's level of education that allows for reimbursement in all appropriate settings where persons with behavioral health disorders are treated, and is designed to facilitate work in conjunction with master's level clinicians in a fashion that allows all professionals to work at the top of their scope of licenses.

Changes to Involuntary Treatment Act Definitions. Changes are made to definitions used under the Involuntary Treatment Act (ITA) to guide the discretion of a designated crisis responder and court to detain a person for involuntary treatment for a mental health disorder

or substance use disorder, based on the person presenting a likelihood of serious harm or being gravely disabled.

The definition of "likelihood of serious harm" is expanded to allow for evidence of behavior that has caused physical harm or substantial pain, or which places a person in reasonable fear of harm to themselves or others.

The definition of "gravely disabled" is modified to change "manifests severe deterioration in routine functioning" to "manifests severe deterioration from safe behavior." Severe deterioration from safe behavior is defined to mean that the person will, if not treated, suffer or continue to suffer severe and abnormal mental, emotional, or physical distress associated with significant impairment of judgment, reason, or behavior.

The definition of "violent act" used in analyzing whether a person has a history of one or more violent acts is expanded to include behavior that results in injury, or substantial loss or damage to property.

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 on Engrossed Substitute House Bill (Behavioral Health Subcommittee to Health & Long Term Care): *The committee recommended a different version of the bill than what was heard.* PRO: It is a historic step to define substance use recovery in statute for the first time, in a way that is inclusive of individuals accessing medication-assisted treatment. This definition now represents broad agreement. I am most excited to address the behavioral health workforce crisis by removing barriers to employment for current CDPs and CDPTs. The WRAMP program was designed for people who develop a substance use disorder or relapse during the course of their practice; it was not intended for individuals in long-term recovery to create a barrier to them entering the field. These persons have a pre-existing condition which is in remission; they are being put on a program which is not medically necessary and imposes extraordinary costs that cannot be covered by insurance. The data shows low relapse rates for persons on this program, particularly after more than one year in recovery. People are motivated to work in the substance use disorder treatment field because of their lived experience. A history of addiction often comes with a history of crimes. When people are in recovery they change. People in recovery are people of impeccable integrity who participate in a program which demands rigorous honesty and a life of service. They are drawn to help others and are qualified to stem the tide and help us with the opioid epidemic. In our business we employ about 200 people; about 60 percent of whom are in recovery. Part of modernizing substance use disorder practice is destigmatizing addiction and recovery. People in recovery go on to lead very productive lives. The monitoring program is a wonderful program for those who need it but the way it is being applied creates a big barrier for others. For us this bill is the most meaningful intervention we have seen to address our workforce shortage. These

changes will help get more CDPs into the system, which is good for patients. The number of training hours required for CDPs has grown dramatically over the years. Persons in recovery are qualified to help others.

Persons Testifying (Behavioral Health Subcommittee to Health & Long Term Care):

PRO: Representative Lauren Davis, Prime Sponsor; Linda Grant, Evergreen Recovery Centers; Michael Transue, Seattle Drug and Narcotic Treatment Center; Brad Bresolin, Social Treatment Opportunity Programs.

Persons Signed In To Testify But Not Testifying (Behavioral Health Subcommittee to Health & Long Term Care): No one.

Staff Summary of Public Testimony on the Bill as Amended by Behavioral Health Subcommittee to Health & Long Term Care (Ways & Means):

PRO: We are grateful for the ongoing conversation to better build our workforce for treating the often co-occurring substance use disorder and behavioral health problems of our patient population. Washington has been working to integrate behavioral health and substance use disorder for more than a decade and we are facing a 2020 deadline to integrate those systems through the state. We already have integrated purchasing, integrated insurance coverage, and integrated payment systems; it is now time to integrate our workforce. This would allow 16,000 behavioral health licensees with masters and Ph.D. level training to do additional training, pass an exam, and add their experienced skills to these problems. There are not enough providers to meet the needs of individuals with co-occurring disorders and they end up waiting weeks and weeks while they are in trauma and suffering. This integration is a last step in helping have trained individuals to help the people that need treatment. This bill would make it possible to grow our workforce with integrated care allowing someone to get both their substance use and mental health needs met and be treated upstream and avoid the more costly downstream services.

Persons Testifying (Ways & Means): PRO: Lindsey Grad, SEIU Healthcare 1199NW; Celia Jackson, King County; Kate White Tudor, WCMHC; Scott Munson, President, Addiction and Alcoholism Programs of Washington; Terri Roper, Chemical Dependency Professionals of Washington State; Bob Cooper, National Association of Social Workers, Washington Chapter.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.