
SECOND SUBSTITUTE HOUSE BILL 1865

State of Washington

67th Legislature

2022 Regular Session

By House Appropriations (originally sponsored by Representatives Davis, Caldier, Callan, Dent, Duerr, Goodman, Macri, Senn, Wylie, Paul, Sullivan, Simmons, Chopp, Slatter, Bergquist, Valdez, Pollet, Ormsby, Graham, and Frame)

READ FIRST TIME 02/07/22.

1 AN ACT Relating to addressing the behavioral health workforce
2 shortage and expanding access to peer services by creating the
3 profession of certified peer specialists; amending RCW 18.130.040 and
4 43.43.842; reenacting and amending RCW 18.130.175; adding new
5 sections to chapter 71.24 RCW; adding a new chapter to Title 18 RCW;
6 creating new sections; and providing an effective date.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** (1) The legislature finds that peers play
9 a critical role along the behavioral health continuum of care, from
10 outreach to treatment to recovery support. Peers deal in the currency
11 of hope and motivation and are incredibly adept at supporting people
12 with behavioral health challenges on their recovery journeys. Peers
13 represent the only segment of the behavioral health workforce where
14 there is not a shortage, but a surplus of willing workers. Peers,
15 however, are presently limited to serving only medicaid recipients
16 and working only in community behavioral health agencies. As a
17 result, youth and adults with commercial insurance have no access to
18 peer services. Furthermore, peers who work in other settings, such as
19 emergency departments and behavioral health urgent care, cannot bill
20 insurance for their services.

1 (2) Therefore, it is the intent of the legislature to address the
2 behavioral health workforce crisis, expand access to peer services,
3 and honor the contributions of the peer profession by creating the
4 profession of certified peer specialists.

5 NEW SECTION. **Sec. 2.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires
7 otherwise.

8 (1) "Advisory committee" means the Washington state certified
9 peer specialist advisory committee established under section 4 of
10 this act.

11 (2) "Approved supervisor" means:

12 (a) Until July 1, 2026, a behavioral health provider, as defined
13 in RCW 71.24.025 with at least two years of experience working in a
14 behavioral health practice that employs peer specialists as part of
15 treatment teams; or

16 (b) A certified peer specialist who has completed:

17 (i) At least 1,500 hours of work as a fully certified peer
18 specialist engaged in the practice of peer support services, with at
19 least 500 hours attained through the joint supervision of peers in
20 conjunction with another approved supervisor; and

21 (ii) The training developed by the health care authority under
22 section 11 of this act.

23 (3) "Certified peer specialist" means a person certified under
24 this chapter to engage in the practice of peer support services.

25 (4) "Certified peer specialist trainee" means an individual
26 working toward the supervised experience and written examination
27 requirements to become a certified peer specialist under this
28 chapter.

29 (5) "Department" means the department of health.

30 (6) "Practice of peer support services" means the provision of
31 interventions by either a person in recovery from a mental health
32 condition or substance use disorder, or both, or the parent or legal
33 guardian of a youth who is receiving or has received behavioral
34 health services. The client receiving the interventions receives them
35 from a person with a similar lived experience as either a person in
36 recovery from a mental health condition or substance use disorder, or
37 both, or the parent or legal guardian of a youth who is receiving or
38 has received behavioral health services. The person provides the
39 interventions through the use of shared experiences to assist a

1 client in the acquisition and exercise of skills needed to support
2 the client's recovery. Interventions may include activities that
3 assist clients in accessing or engaging in treatment and in symptom
4 management; promote social connection, recovery, and self-advocacy;
5 provide guidance in the development of natural community supports and
6 basic daily living skills; and support clients in engagement,
7 motivation, and maintenance related to achieving and maintaining
8 health and wellness goals.

9 (7) "Secretary" means the secretary of health.

10 NEW SECTION. **Sec. 3.** In addition to any other authority, the
11 secretary has the authority to:

12 (1) Adopt rules under chapter 34.05 RCW necessary to implement
13 this chapter;

14 (2) Establish all certification, examination, and renewal fees in
15 accordance with RCW 43.70.110 and 43.70.250;

16 (3) Establish forms and procedures necessary to administer this
17 chapter;

18 (4) Issue certificates to applicants who have met the education,
19 training, and examination requirements for obtaining a certificate
20 and to deny a certificate to applicants who do not meet the
21 requirements;

22 (5) Coordinate with the health care authority to confirm an
23 applicants' successful completion of the certified peer specialist
24 education course offered by the health care authority under section
25 11 of this act and successful passage of the associated oral
26 examination as proof of eligibility to take a qualifying written
27 examination for applicants for obtaining a certificate;

28 (6) Establish practice parameters consistent with the definition
29 of the practice of peer support services;

30 (7) Provide staffing and administrative support to the advisory
31 committee;

32 (8) Determine which states have credentialing requirements
33 equivalent to those of this state, and issue certificates to
34 applicants credentialed in those states without examination;

35 (9) Define and approve any supervised experience requirements for
36 certification;

37 (10) Assist the advisory committee with the review of peer
38 counselor apprenticeship program applications in the process of being
39 approved and registered under chapter 49.04 RCW;

- 1 (11) Adopt rules implementing a continuing competency program;
2 and
3 (12) Establish by rule the procedures for an appeal of an
4 examination failure.

5 NEW SECTION. **Sec. 4.** (1) The Washington state certified peer
6 specialist advisory committee is established.

7 (2) (a) The advisory committee shall consist of 11 members. Nine
8 members must be certified peer specialists. Those nine members shall
9 be inclusive of mental health peers, substance use disorder peers,
10 community-based peers, peers who work in clinical settings, youth
11 peers, adult peers, and peer supervisors. One member must represent
12 community behavioral health agencies. One member must represent the
13 public at large and may not be a credentialed behavioral health
14 provider. The advisory committee shall be reflective of the community
15 who receives peer services, including people who are Black,
16 indigenous, people of color, and individuals who identify as LGBTQ.
17 All members of the advisory committee must be residents of Washington
18 state. Members may not hold an office in a professional association
19 for peer specialists or be employed by the state. A majority of the
20 members currently serving shall constitute a quorum.

21 (b) The members shall be appointed by the secretary to serve
22 three-year terms which may be renewed. Initial members shall be
23 appointed to staggered terms which may be less than three years.
24 Initial membership may vary from the requirements in (a) of this
25 subsection to account for the lack of an available credential for
26 certified peer specialists at the time the advisory committee is
27 established. The advisory committee shall select a chair and vice
28 chair.

29 (3) The department and the health care authority, as appropriate,
30 are encouraged to adopt recommendations as submitted by the advisory
31 committee on topics related to the administration of this chapter and
32 provide their rationale for any formal recommendations of the
33 advisory committee that either agency does not adopt, including:

34 (a) Advice and recommendations regarding the establishment or
35 implementation of rules related to this chapter;

36 (b) Advice, recommendations, and consultation regarding
37 professional boundaries, customary practices, and other aspects of
38 peer support as it relates to complaints, investigations, and other
39 disciplinary actions;

1 (c) Assistance and recommendations to enhance patient and client
2 education;

3 (d) Assistance and recommendations regarding the written and oral
4 examination to become a certified peer specialist and the examiners
5 conducting the examinations, including recommendations to assure that
6 the examinations, and the manner in which the examinations are
7 administered, are culturally appropriate;

8 (e) Assistance and recommendations regarding any continuing
9 education and continuing competency programs administered under the
10 provisions of this chapter;

11 (f) Advice and guidance regarding criteria for certification
12 based on prior experience as a peer specialist attained before July
13 1, 2024, as described in section 6(2) of this act;

14 (g) Recommendations for additional supports that may help those
15 practicing as peer counselors as of the effective date of this
16 section to become certified peer specialists;

17 (h) Review of existing health care authority policies and
18 procedures related to peer counselors;

19 (i) Advice on approving additional education and training
20 entities, other than the health care authority, to conduct the course
21 of instruction in section 11(1)(a) of this act to expand availability
22 of the course, particularly among black, indigenous, people of color,
23 and individuals who identify as LGBTQ;

24 (j) Advice on approving additional testing entities, other than
25 the health care authority to administer the written and oral
26 examination, including entities owned by black, indigenous, and
27 people of color;

28 (k) Advice on long-term planning and growth for the future
29 advancement of the peer specialist profession; and

30 (l) Recommendations on recruitment and retention in the peer
31 specialist profession, including among black, indigenous, people of
32 color, and individuals who identify as LGBTQ.

33 (4) Committee members are immune from suit in an action, civil or
34 criminal, based on the department's disciplinary proceedings or other
35 official acts performed in good faith.

36 (5) Committee members shall be compensated in accordance with RCW
37 43.03.240, including travel expenses in carrying out his or her
38 authorized duties in accordance with RCW 43.03.050 and 43.03.060.

1 NEW SECTION. **Sec. 5.** Nothing in this chapter may be construed
2 to prohibit or restrict:

3 (1) An individual who holds a credential issued by this state,
4 other than as a certified peer specialist or certified peer
5 specialist trainee, to engage in the practice of an occupation or
6 profession without obtaining an additional credential from the state.
7 The individual may not use the title certified peer specialist unless
8 the individual holds a credential under this chapter; or

9 (2) The practice of peer support services by a person who is
10 employed by the government of the United States while engaged in the
11 performance of duties prescribed by the laws of the United States.

12 NEW SECTION. **Sec. 6.** (1) Beginning July 1, 2024, except as
13 provided in subsections (2) and (3) of this section, the secretary
14 shall issue a certificate to engage in the practice of peer support
15 services to any applicant who demonstrates to the satisfaction of the
16 secretary that the applicant meets the following requirements:

17 (a) Submission of an attestation to the department that the
18 applicant self-identifies as:

19 (i) A person with one or more years of recovery from a mental
20 health condition, substance use disorder, or both; or

21 (ii) The parent or legal guardian of a youth who is receiving or
22 has received behavioral health services;

23 (b) Successful completion of the education course developed and
24 offered by the health care authority under section 11 of this act;

25 (c) Successful passage of an oral examination administered by the
26 health care authority upon completion of the education course offered
27 by the health care authority under section 11 of this act;

28 (d) Successful passage of a written examination administered by
29 the health care authority upon completion of the education course
30 offered by the health care authority under section 11 of this act;

31 (e) Successful completion of an experience requirement of at
32 least 1,000 supervised hours as a certified peer specialist trainee
33 engaged in the volunteer or paid practice of peer support services,
34 in accordance with the standards in section 7 of this act; and

35 (f) Payment of the appropriate fee required under this chapter.

36 (2) The secretary, with the recommendation of the advisory
37 committee, shall establish criteria for the issuance of a certificate
38 to engage in the practice of peer support services based on prior
39 experience as a peer specialist attained before July 1, 2024. The

1 criteria shall establish equivalency standards necessary to be deemed
2 to have met the requirements of subsection (1) of this section. An
3 applicant under this subsection shall have until July 1, 2025, to
4 complete any standards in which the applicant is determined to be
5 deficient.

6 (3) The secretary, with the recommendation of the advisory
7 committee, shall issue a certificate to engage in the practice of
8 peer support services based on completion of an apprenticeship
9 program registered and approved under chapter 49.04 RCW and reviewed
10 by the advisory committee under section 3 of this act.

11 (4) A certificate to engage in the practice of peer support
12 services is valid for two years. A certificate may be renewed upon
13 demonstrating to the department that the certified peer specialist
14 has successfully completed 30 hours of continuing education approved
15 by the department. As part of the continuing education requirement,
16 every six years the applicant must submit proof of successful
17 completion of at least three hours of suicide prevention training and
18 at least six hours of coursework in professional ethics and law,
19 which may include topics under RCW 18.130.180.

20 NEW SECTION. **Sec. 7.** (1) The secretary shall issue a
21 certificate to engage in the practice of peer support services as a
22 certified peer specialist trainee to any applicant who demonstrates
23 to the satisfaction of the secretary that:

24 (a) The applicant meets the requirements of section 6 (1)(a),
25 (b), (c), (d), and (4) of this act and is working toward the
26 supervised experience requirements to become a certified peer
27 specialist under this chapter; or

28 (b) The applicant is enrolled in an apprenticeship program
29 registered and approved under chapter 49.04 RCW and approved by the
30 secretary under section 3 of this act.

31 (2) An applicant seeking to become a certified peer specialist
32 trainee under this section shall submit to the secretary for approval
33 an attestation, in accordance with rules adopted by the department,
34 that the certified peer specialist trainee is actively pursuing the
35 supervised experience requirements of section 6(1)(d) of this act.
36 This attestation must be updated with the trainee's annual renewal.

37 (3) A certified peer specialist trainee certified under this
38 section may practice only under the supervision of an approved
39 supervisor. Supervision may be provided through distance supervision.

1 Supervision may be provided by an approved supervisor who is employed
2 by the same employer that employs the certified peer specialist
3 trainee or by an arrangement made with a third-party approved
4 supervisor to provide supervision, or a combination of both types of
5 approved supervisors.

6 (4) A certified peer specialist trainee certificate is valid for
7 one year and may only be renewed four times.

8 NEW SECTION. **Sec. 8.** (1) The date and location of written
9 examinations must be established by the health care authority.
10 Applicants who have been found by the health care authority to meet
11 other requirements for obtaining a certificate must be scheduled for
12 the next examination following the filing of the application. The
13 health care authority shall establish by rule the examination
14 application deadline.

15 (2) The health care authority shall administer written
16 examinations to each applicant, by means determined most effective,
17 on subjects appropriate to the scope of practice, as applicable. The
18 examinations must be limited to the purpose of determining whether
19 the applicant possesses the minimum skill and knowledge necessary to
20 practice competently.

21 (3) The examination materials, all grading of the materials, and
22 the grading of any practical work must be preserved for a period of
23 not less than one year after the health care authority has made and
24 published the decisions. All examinations must be conducted under
25 fair and wholly impartial methods.

26 (4) Any applicant failing to make the required grade in the first
27 written examination may take up to three subsequent written
28 examinations as the applicant desires upon prepaying a fee determined
29 by the health care authority for each subsequent written examination.
30 Upon failing four written examinations, the health care authority may
31 invalidate the original application and require remedial education
32 before the person may take future written examinations.

33 (5) The health care authority may approve a written examination
34 prepared or administered by a private organization that credentials
35 and renews credentials for peer counselors, or an association of
36 credentialing agencies, for use by an applicant in meeting the
37 credentialing requirements.

1 NEW SECTION. **Sec. 9.** The secretary shall establish, by rule,
2 the requirements and fees for renewal of a certificate issued
3 pursuant to this chapter. Fees must be established in accordance with
4 RCW 43.70.110 and 43.70.250. Failure to renew the certificate
5 invalidates the certificate and all privileges granted by the
6 certificate. If a certificate has lapsed for a period longer than
7 three years, the person shall demonstrate competence to the
8 satisfaction of the secretary by completing continuing competency
9 requirements or meeting other standards determined by the secretary.

10 NEW SECTION. **Sec. 10.** The uniform disciplinary act, chapter
11 18.130 RCW, governs uncertified practice of peer support services,
12 the issuance and denial of certificates, and the discipline of
13 certified peer specialists and certified peer specialist trainees
14 under this chapter.

15 NEW SECTION. **Sec. 11.** A new section is added to chapter 71.24
16 RCW to read as follows:

17 (1) (a) By January 1, 2024, the authority must develop a course of
18 instruction to become a certified peer specialist under chapter
19 18.--- RCW (the new chapter created in section 18 of this act). The
20 course must be approximately 80 hours in duration and based upon the
21 curriculum offered by the authority in its peer counselor training as
22 of the effective date of this section, as well as additional
23 instruction in the principles of recovery coaching and suicide
24 prevention. The authority shall establish a peer engagement process
25 to receive suggestions regarding subjects to be covered in the 80-
26 hour curriculum beyond those addressed in the peer counselor training
27 curriculum and recovery coaching and suicide prevention curricula,
28 including the cultural appropriateness of the 80-hour training. The
29 education course must be taught by certified peer specialists. The
30 education course must be offered by the authority with sufficient
31 frequency to accommodate the demand for training and the needs of the
32 workforce. The authority must establish multiple configurations for
33 offering the education course, including offering the course as an
34 uninterrupted course with longer class hours held on consecutive days
35 for students seeking accelerated completion of the course and as an
36 extended course with reduced daily class hours, possibly with
37 multiple days between classes, to accommodate students with other

1 commitments. Upon completion of the education course, the student
2 must pass an oral examination administered by the course trainer.

3 (b) The authority shall develop an expedited course of
4 instruction that consists of only those portions of the curriculum
5 required under (a) of this subsection that exceed the authority's
6 certified peer counselor training curriculum as it exists on the
7 effective date of this section. The expedited training shall focus on
8 assisting persons who completed the authority's certified peer
9 counselor training as it exists on the effective date of this section
10 to meet the education requirements for certification under section 6
11 of this act.

12 (2) By January 1, 2024, the authority must develop a training
13 course for certified peer specialists providing supervision to
14 certified peer specialist trainees under section 7 of this act.

15 (3)(a) By July 1, 2024, the authority shall offer a 40-hour
16 specialized training course in peer crisis response services for peer
17 specialists certified under chapter 18.--- RCW (the new chapter
18 created in section 18 of this act) who are working as peer crisis
19 responders. The training shall incorporate best practices for
20 responding to 988 behavioral health crisis line calls, as well as
21 processes for co-response with law enforcement when necessary.

22 (b) Beginning July 1, 2025, any entity that uses certified peer
23 specialists as peer crisis responders, may only use certified peer
24 specialists who have completed the training course established by (a)
25 of this subsection. A behavioral health agency that uses certified
26 peer specialists to work as peer crisis responders must maintain the
27 records of the completion of the training course for those certified
28 peer specialists who provide these services and make the records
29 available to the state agency for auditing or certification purposes.

30 (4) By July 1, 2024, the authority shall offer a course designed
31 to inform licensed or certified behavioral health agencies of the
32 benefits of incorporating certified peer specialists and certified
33 peer specialist trainees into their clinical staff and best practices
34 for incorporating their services. The authority shall encourage
35 entities that hire certified peer specialists and certified peer
36 specialist trainees, including licensed or certified behavioral
37 health agencies, hospitals, primary care offices, and other entities,
38 to have appropriate staff attend the training by making it available
39 in multiple formats.

40 (5) The authority shall:

1 (a) Hire clerical, administrative, investigative, and other staff
2 as needed to implement this section to serve as examiners for any
3 practical oral or written examination and assure that the examiners
4 are trained to administer examinations in a culturally appropriate
5 manner and represent the diversity of applicants being tested. The
6 authority shall adopt procedures to allow for appropriate
7 accommodations for persons with a learning disability, other
8 disabilities, and other needs and assure that staff involved in the
9 administration of examinations are trained on those procedures;

10 (b) Develop oral and written examinations required under this
11 section. The initial examinations shall be adapted from those used by
12 the authority as of the effective date of this section and modified
13 pursuant to input and comments from the Washington state peer
14 specialist advisory committee. The authority shall assure that the
15 examinations are culturally appropriate;

16 (c) Prepare, grade, and administer, or supervise the grading and
17 administration of written examinations for obtaining a certificate;

18 (d) Approve entities to provide the educational courses required
19 by this section and approve entities to prepare, grade, and
20 administer written examinations for the educational courses required
21 by this section. In establishing approval criteria, the authority
22 shall consider the recommendations of the Washington state peer
23 specialist advisory committee; and

24 (e) Develop examination preparation materials and make them
25 available to students enrolled in the courses established under this
26 section in multiple formats, including specialized examination
27 preparation support for students with higher barriers to passing the
28 written examination.

29 (6) For the purposes of this section, the term "peer crisis
30 responder" means a peer specialist certified under chapter 18.--- RCW
31 (the new chapter created in section 18 of this act) who has completed
32 the training under subsection (3) of this section whose job involves
33 responding to behavioral health emergencies, including those
34 dispatched through a 988 crisis hotline or the 911 system.

35 NEW SECTION. **Sec. 12.** A new section is added to chapter 71.24
36 RCW to read as follows:

37 Behavioral health agencies must reduce the caseload for approved
38 supervisors who are providing supervision to certified peer
39 specialist trainees seeking certification under chapter 18.--- RCW

1 (the new chapter created in section 18 of this act), in accordance
2 with standards established by the Washington state certified peer
3 specialist advisory committee.

4 NEW SECTION. **Sec. 13.** A new section is added to chapter 71.24
5 RCW to read as follows:

6 A person who is registered as an agency-affiliated counselor
7 under chapter 18.19 RCW who engages in the practice of peer support
8 services and whose agency, as defined in RCW 18.19.020, bills medical
9 assistance for those services must hold a certificate as a certified
10 peer specialist or certified peer specialist trainee under chapter
11 18.--- RCW (the new chapter created in section 18 of this act) no
12 later than January 1, 2026.

13 NEW SECTION. **Sec. 14.** By January 1, 2025, the office of the
14 insurance commissioner shall make recommendations to health carriers
15 regarding appropriate use of certified peer specialists and certified
16 peer specialist trainees, network adequacy for certified peer
17 specialists and certified peer specialist trainees, and steps to
18 incorporate certified peer specialists and certified peer specialist
19 trainees into commercial provider networks. The commissioner may
20 adopt any rules related to recommendations developed pursuant to this
21 section.

22 **Sec. 15.** RCW 18.130.040 and 2021 c 179 s 7 are each amended to
23 read as follows:

24 (1) This chapter applies only to the secretary and the boards and
25 commissions having jurisdiction in relation to the professions
26 licensed under the chapters specified in this section. This chapter
27 does not apply to any business or profession not licensed under the
28 chapters specified in this section.

29 (2)(a) The secretary has authority under this chapter in relation
30 to the following professions:

31 (i) Dispensing opticians licensed and designated apprentices
32 under chapter 18.34 RCW;

33 (ii) Midwives licensed under chapter 18.50 RCW;

34 (iii) Ocularists licensed under chapter 18.55 RCW;

35 (iv) Massage therapists and businesses licensed under chapter
36 18.108 RCW;

37 (v) Dental hygienists licensed under chapter 18.29 RCW;

1 (vi) Acupuncturists or acupuncture and Eastern medicine
2 practitioners licensed under chapter 18.06 RCW;

3 (vii) Radiologic technologists certified and X-ray technicians
4 registered under chapter 18.84 RCW;

5 (viii) Respiratory care practitioners licensed under chapter
6 18.89 RCW;

7 (ix) Hypnotherapists and agency affiliated counselors registered
8 and advisors and counselors certified under chapter 18.19 RCW;

9 (x) Persons licensed as mental health counselors, mental health
10 counselor associates, marriage and family therapists, marriage and
11 family therapist associates, social workers, social work associates—
12 advanced, and social work associates—independent clinical under
13 chapter 18.225 RCW;

14 (xi) Persons registered as nursing pool operators under chapter
15 18.52C RCW;

16 (xii) Nursing assistants registered or certified or medication
17 assistants endorsed under chapter 18.88A RCW;

18 (xiii) Dietitians and nutritionists certified under chapter
19 18.138 RCW;

20 (xiv) Substance use disorder professionals, substance use
21 disorder professional trainees, or co-occurring disorder specialists
22 certified under chapter 18.205 RCW;

23 (xv) Sex offender treatment providers and certified affiliate sex
24 offender treatment providers certified under chapter 18.155 RCW;

25 (xvi) Persons licensed and certified under chapter 18.73 RCW or
26 RCW 18.71.205;

27 (xvii) Orthotists and prosthetists licensed under chapter 18.200
28 RCW;

29 (xviii) Surgical technologists registered under chapter 18.215
30 RCW;

31 (xix) Recreational therapists under chapter 18.230 RCW;

32 (xx) Animal massage therapists certified under chapter 18.240
33 RCW;

34 (xxi) Athletic trainers licensed under chapter 18.250 RCW;

35 (xxii) Home care aides certified under chapter 18.88B RCW;

36 (xxiii) Genetic counselors licensed under chapter 18.290 RCW;

37 (xxiv) Reflexologists certified under chapter 18.108 RCW;

38 (xxv) Medical assistants-certified, medical assistants-
39 hemodialysis technician, medical assistants-phlebotomist, forensic

1 phlebotomist, and medical assistants-registered certified and
2 registered under chapter 18.360 RCW; (~~and~~)
3 (xxvi) Behavior analysts, assistant behavior analysts, and
4 behavior technicians under chapter 18.380 RCW; and
5 (xxvii) Certified peer specialists and certified peer specialist
6 trainees under chapter 18.--- RCW (the new chapter created in section
7 18 of this act).

8 (b) The boards and commissions having authority under this
9 chapter are as follows:

10 (i) The podiatric medical board as established in chapter 18.22
11 RCW;

12 (ii) The chiropractic quality assurance commission as established
13 in chapter 18.25 RCW;

14 (iii) The dental quality assurance commission as established in
15 chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW,
16 licenses and registrations issued under chapter 18.260 RCW, and
17 certifications issued under chapter 18.350 RCW;

18 (iv) The board of hearing and speech as established in chapter
19 18.35 RCW;

20 (v) The board of examiners for nursing home administrators as
21 established in chapter 18.52 RCW;

22 (vi) The optometry board as established in chapter 18.54 RCW
23 governing licenses issued under chapter 18.53 RCW;

24 (vii) The board of osteopathic medicine and surgery as
25 established in chapter 18.57 RCW governing licenses issued under
26 chapter 18.57 RCW;

27 (viii) The pharmacy quality assurance commission as established
28 in chapter 18.64 RCW governing licenses issued under chapters 18.64
29 and 18.64A RCW;

30 (ix) The Washington medical commission as established in chapter
31 18.71 RCW governing licenses and registrations issued under chapters
32 18.71 and 18.71A RCW;

33 (x) The board of physical therapy as established in chapter 18.74
34 RCW;

35 (xi) The board of occupational therapy practice as established in
36 chapter 18.59 RCW;

37 (xii) The nursing care quality assurance commission as
38 established in chapter 18.79 RCW governing licenses and registrations
39 issued under that chapter;

1 (xiii) The examining board of psychology and its disciplinary
2 committee as established in chapter 18.83 RCW;

3 (xiv) The veterinary board of governors as established in chapter
4 18.92 RCW;

5 (xv) The board of naturopathy established in chapter 18.36A RCW,
6 governing licenses and certifications issued under that chapter; and

7 (xvi) The board of denturists established in chapter 18.30 RCW.

8 (3) In addition to the authority to discipline license holders,
9 the disciplining authority has the authority to grant or deny
10 licenses. The disciplining authority may also grant a license subject
11 to conditions.

12 (4) All disciplining authorities shall adopt procedures to ensure
13 substantially consistent application of this chapter, the uniform
14 disciplinary act, among the disciplining authorities listed in
15 subsection (2) of this section.

16 **Sec. 16.** RCW 18.130.175 and 2019 c 446 s 43 and 2019 c 444 s 21
17 are each reenacted and amended to read as follows:

18 (1) In lieu of disciplinary action under RCW 18.130.160 and if
19 the disciplining authority determines that the unprofessional conduct
20 may be the result of substance abuse, the disciplining authority may
21 refer the license holder to a voluntary substance abuse monitoring
22 program approved by the disciplining authority.

23 The cost of the treatment shall be the responsibility of the
24 license holder, but the responsibility does not preclude payment by
25 an employer, existing insurance coverage, or other sources. Primary
26 alcoholism or other drug addiction treatment shall be provided by
27 approved treatment programs under RCW 70.96A.020 or by any other
28 provider approved by the entity or the commission. However, nothing
29 shall prohibit the disciplining authority from approving additional
30 services and programs as an adjunct to primary alcoholism or other
31 drug addiction treatment. The disciplining authority may also approve
32 the use of out-of-state programs. Referral of the license holder to
33 the program shall be done only with the consent of the license
34 holder. Referral to the program may also include probationary
35 conditions for a designated period of time. If the license holder
36 does not consent to be referred to the program or does not
37 successfully complete the program, the disciplining authority may
38 take appropriate action under RCW 18.130.160 which includes
39 suspension of the license unless or until the disciplining authority,

1 in consultation with the director of the voluntary substance abuse
2 monitoring program, determines the license holder is able to practice
3 safely. The secretary shall adopt uniform rules for the evaluation by
4 the disciplining authority of a relapse or program violation on the
5 part of a license holder in the substance abuse monitoring program.
6 The evaluation shall encourage program participation with additional
7 conditions, in lieu of disciplinary action, when the disciplining
8 authority determines that the license holder is able to continue to
9 practice with reasonable skill and safety.

10 (2) In addition to approving substance abuse monitoring programs
11 that may receive referrals from the disciplining authority, the
12 disciplining authority may establish by rule requirements for
13 participation of license holders who are not being investigated or
14 monitored by the disciplining authority for substance abuse. License
15 holders voluntarily participating in the approved programs without
16 being referred by the disciplining authority shall not be subject to
17 disciplinary action under RCW 18.130.160 for their substance abuse,
18 and shall not have their participation made known to the disciplining
19 authority, if they meet the requirements of this section and the
20 program in which they are participating.

21 (3) The license holder shall sign a waiver allowing the program
22 to release information to the disciplining authority if the licensee
23 does not comply with the requirements of this section or is unable to
24 practice with reasonable skill or safety. The substance abuse program
25 shall report to the disciplining authority any license holder who
26 fails to comply with the requirements of this section or the program
27 or who, in the opinion of the program, is unable to practice with
28 reasonable skill or safety. License holders shall report to the
29 disciplining authority if they fail to comply with this section or do
30 not complete the program's requirements. License holders may, upon
31 the agreement of the program and disciplining authority, reenter the
32 program if they have previously failed to comply with this section.

33 (4) The treatment and pretreatment records of license holders
34 referred to or voluntarily participating in approved programs shall
35 be confidential, shall be exempt from chapter 42.56 RCW, and shall
36 not be subject to discovery by subpoena or admissible as evidence
37 except for monitoring records reported to the disciplining authority
38 for cause as defined in subsection (3) of this section. Monitoring
39 records relating to license holders referred to the program by the
40 disciplining authority or relating to license holders reported to the

1 disciplining authority by the program for cause, shall be released to
2 the disciplining authority at the request of the disciplining
3 authority. Records held by the disciplining authority under this
4 section shall be exempt from chapter 42.56 RCW and shall not be
5 subject to discovery by subpoena except by the license holder.

6 (5) "Substance abuse," as used in this section, means the
7 impairment, as determined by the disciplining authority, of a license
8 holder's professional services by an addiction to, a dependency on,
9 or the use of alcohol, legend drugs, or controlled substances.

10 (6) This section does not affect an employer's right or ability
11 to make employment-related decisions regarding a license holder. This
12 section does not restrict the authority of the disciplining authority
13 to take disciplinary action for any other unprofessional conduct.

14 (7) A person who, in good faith, reports information or takes
15 action in connection with this section is immune from civil liability
16 for reporting information or taking the action.

17 (a) The immunity from civil liability provided by this section
18 shall be liberally construed to accomplish the purposes of this
19 section and the persons entitled to immunity shall include:

20 (i) An approved monitoring treatment program;

21 (ii) The professional association operating the program;

22 (iii) Members, employees, or agents of the program or
23 association;

24 (iv) Persons reporting a license holder as being possibly
25 impaired or providing information about the license holder's
26 impairment; and

27 (v) Professionals supervising or monitoring the course of the
28 impaired license holder's treatment or rehabilitation.

29 (b) The courts are strongly encouraged to impose sanctions on
30 clients and their attorneys whose allegations under this subsection
31 are not made in good faith and are without either reasonable
32 objective, substantive grounds, or both.

33 (c) The immunity provided in this section is in addition to any
34 other immunity provided by law.

35 (8) In the case of a person who is applying to be a substance use
36 disorder professional or substance use disorder professional trainee
37 certified under chapter 18.205 RCW, an agency affiliated counselor
38 registered under chapter 18.19 RCW, or a peer specialist or peer
39 specialist trainee certified under chapter 18.--- RCW (the new
40 chapter created in section 18 of this act), if the person is:

1 (a) Less than one year in recovery from a substance use disorder,
2 the duration of time that the person may be required to participate
3 in the voluntary substance abuse monitoring program may not exceed
4 the amount of time necessary for the person to achieve one year in
5 recovery; or

6 (b) At least one year in recovery from a substance use disorder,
7 the person may not be required to participate in the substance abuse
8 monitoring program.

9 ~~((In the case of a person who is applying to be an agency
10 affiliated counselor registered under chapter 18.19 RCW and practices
11 or intends to practice as a peer counselor in an agency, as defined
12 in RCW 18.19.020, if the person is:~~

13 ~~(a) Less than one year in recovery from a substance use disorder,
14 the duration of time that the person may be required to participate
15 in the voluntary substance abuse monitoring program may not exceed
16 the amount of time necessary for the person to achieve one year in
17 recovery; or~~

18 ~~(b) At least one year in recovery from a substance use disorder,
19 the person may not be required to participate in the substance abuse
20 monitoring program))~~ The provisions of subsection (8) of this section
21 apply to any person employed as a peer specialist as of July 1, 2024,
22 participating in a program under this section as of July 1, 2024, and
23 applying to become a certified peer specialist under section 6 of
24 this act, regardless of when the person's participation in a program
25 began. To this extent, subsection (8) of this section applies
26 retroactively, but in all other respects it applies prospectively.

27 **Sec. 17.** RCW 43.43.842 and 2021 c 215 s 150 are each amended to
28 read as follows:

29 (1)(a) The secretary of social and health services and the
30 secretary of health shall adopt additional requirements for the
31 licensure or relicensure of agencies, facilities, and licensed
32 individuals who provide care and treatment to vulnerable adults,
33 including nursing pools registered under chapter 18.52C RCW. These
34 additional requirements shall ensure that any person associated with
35 a licensed agency or facility having unsupervised access with a
36 vulnerable adult shall not be the respondent in an active vulnerable
37 adult protection order under chapter 7.105 RCW, nor have been: (i)
38 Convicted of a crime against children or other persons as defined in
39 RCW 43.43.830, except as provided in this section; (ii) convicted of

1 crimes relating to financial exploitation as defined in RCW
2 43.43.830, except as provided in this section; or (iii) found in any
3 disciplinary board final decision to have abused a vulnerable adult
4 as defined in RCW 43.43.830.

5 (b) A person associated with a licensed agency or facility who
6 has unsupervised access with a vulnerable adult shall make the
7 disclosures specified in RCW 43.43.834(2). The person shall make the
8 disclosures in writing, sign, and swear to the contents under penalty
9 of perjury. The person shall, in the disclosures, specify all crimes
10 against children or other persons, all crimes relating to financial
11 exploitation, and all crimes relating to drugs as defined in RCW
12 43.43.830, committed by the person.

13 (2) The rules adopted under this section shall permit the
14 licensee to consider the criminal history of an applicant for
15 employment in a licensed facility when the applicant has one or more
16 convictions for a past offense and:

17 (a) The offense was simple assault, assault in the fourth degree,
18 or the same offense as it may be renamed, and three or more years
19 have passed between the most recent conviction and the date of
20 application for employment;

21 (b) The offense was prostitution, or the same offense as it may
22 be renamed, and three or more years have passed between the most
23 recent conviction and the date of application for employment;

24 (c) The offense was theft in the third degree, or the same
25 offense as it may be renamed, and three or more years have passed
26 between the most recent conviction and the date of application for
27 employment;

28 (d) The offense was theft in the second degree, or the same
29 offense as it may be renamed, and five or more years have passed
30 between the most recent conviction and the date of application for
31 employment;

32 (e) The offense was forgery, or the same offense as it may be
33 renamed, and five or more years have passed between the most recent
34 conviction and the date of application for employment;

35 (f) The department of social and health services reviewed the
36 employee's otherwise disqualifying criminal history through the
37 department of social and health services' background assessment
38 review team process conducted in 2002, and determined that such
39 employee could remain in a position covered by this section; or

1 (g) The otherwise disqualifying conviction or disposition has
2 been the subject of a pardon, annulment, or other equivalent
3 procedure.

4 The offenses set forth in (a) through (g) of this subsection do
5 not automatically disqualify an applicant from employment by a
6 licensee. Nothing in this section may be construed to require the
7 employment of any person against a licensee's judgment.

8 (3) The rules adopted pursuant to subsection (2) of this section
9 may not allow a licensee to automatically deny an applicant with a
10 conviction for an offense set forth in subsection (2) of this section
11 for a position as a substance use disorder professional or substance
12 use disorder professional trainee certified under chapter 18.205 RCW,
13 as an agency affiliated counselor registered under chapter 18.19 RCW
14 practicing as a peer counselor in an agency or facility, or as a peer
15 specialist or peer specialist trainee certified under chapter 18.---
16 RCW (the new chapter created in section 18 of this act), if:

17 (a) At least one year has passed between the applicant's most
18 recent conviction for an offense set forth in subsection (2) of this
19 section and the date of application for employment;

20 (b) The offense was committed as a result of the applicant's
21 substance use or untreated mental health symptoms; and

22 (c) The applicant is at least one year in recovery from a
23 substance use disorder, whether through abstinence or stability on
24 medication-assisted therapy, or in recovery from a mental health
25 disorder.

26 ~~(4) ((The rules adopted pursuant to subsection (2) of this~~
27 ~~section may not allow a licensee to automatically deny an applicant~~
28 ~~with a conviction for an offense set forth in subsection (2) of this~~
29 ~~section for a position as an agency affiliated counselor registered~~
30 ~~under chapter 18.19 RCW practicing as a peer counselor in an agency~~
31 ~~or facility if:~~

32 ~~(a) At least one year has passed between the applicant's most~~
33 ~~recent conviction for an offense set forth in subsection (2) of this~~
34 ~~section and the date of application for employment;~~

35 ~~(b) The offense was committed as a result of the person's~~
36 ~~substance use or untreated mental health symptoms; and~~

37 ~~(c) The applicant is at least one year in recovery from a~~
38 ~~substance use disorder, whether through abstinence or stability on~~
39 ~~medication-assisted therapy, or in recovery from mental health~~
40 ~~challenges.~~

1 ~~(5))~~) In consultation with law enforcement personnel, the
2 secretary of social and health services and the secretary of health
3 shall investigate, or cause to be investigated, the conviction record
4 and the protection proceeding record information under this chapter
5 of the staff of each agency or facility under their respective
6 jurisdictions seeking licensure or relicensure. An individual
7 responding to a criminal background inquiry request from his or her
8 employer or potential employer shall disclose the information about
9 his or her criminal history under penalty of perjury. The secretaries
10 shall use the information solely for the purpose of determining
11 eligibility for licensure or relicensure. Criminal justice agencies
12 shall provide the secretaries such information as they may have and
13 that the secretaries may require for such purpose.

14 NEW SECTION. **Sec. 18.** Sections 1 through 10 of this act
15 constitute a new chapter in Title 18 RCW.

16 NEW SECTION. **Sec. 19.** Sections 15 and 17 of this act take
17 effect July 1, 2022.

18 NEW SECTION. **Sec. 20.** If specific funding for the purposes of
19 this act, referencing this act by bill or chapter number, is not
20 provided by June 30, 2022, in the omnibus appropriations act, this
21 act is null and void.

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