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**HOUSE BILL 1349**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Representatives Davis, Caldier, Frame, Leavitt, Simmons, Paul, Fitzgibbon, Orwall, Shewmake, Ortiz-Self, Slatter, Peterson, Senn, Ramel, Taylor, Ryu, Duerr, Barkis, Pollet, Chopp, Macri, Callan, Ormsby, and Harris

AN ACT Relating to peer specialists; amending RCW 18.130.040; reenacting and amending RCW 18.130.040, 18.130.175, and 43.43.842; adding new sections to chapter 71.24 RCW; adding a new chapter to Title 18 RCW; creating a new section; providing an effective date; and providing an expiration date.

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

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

(1) "Advisory committee" means the Washington state licensed peer specialist advisory committee established under section 3 of this act.

(2) "Approved supervisor" means:

(a) Until July 1, 2024, a behavioral health provider, as defined in RCW 71.24.025 with at least two years of experience working in a behavioral health practice that employs peer specialists as part of treatment teams; or

(b) A licensed peer specialist who has completed:

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

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

(3) "Department" means the department of health.

(4) "Licensed peer specialist" means a person licensed under this chapter to engage in the practice of peer support services.

(5) "Licensed peer specialist trainee" means an individual working toward the supervised experience and written examination requirements to become a licensed peer specialist under this chapter.

(6) "Practice of peer support services" means the provision of interventions by either a person in recovery from a mental health condition or substance use disorder, or both, or the parent or legal guardian of a youth who is receiving or has received behavioral health services. The client receiving the interventions receives them from a person with a similar lived experience as either a person in recovery from a mental health condition or substance use disorder, or both, or the parent or legal guardian of a youth who is receiving or has received behavioral health services. The person provides the interventions through the use of shared experiences to assist a client in the acquisition and exercise of skills needed to support the client's recovery. Interventions may include activities that assist clients in accessing or engaging in treatment and in symptom management; promote social connection, recovery, and self-advocacy; provide guidance in the development of natural community supports and basic daily living skills; and support clients in engagement, motivation, and maintenance related to achieving and maintaining health and wellness goals.

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

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

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

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

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

(4) Issue licenses to applicants who have met the education, training, and examination requirements for obtaining a license and to deny a license to applicants who do not meet the requirements;

(5) Hire clerical, administrative, investigative, and other staff as needed to implement this chapter to serve as examiners for any practical examinations;

(6) Coordinate with the health care authority to confirm an applicants' successful completion of the licensed peer specialist education course offered by the health care authority under section 11 of this act and successful passage of the associated oral examination as proof of eligibility to take a qualifying written examination for applicants for obtaining a license;

(7) Establish practice parameters consistent with the definition of the practice of peer support services;

(8) Develop a written examination. The initial written examination shall be adapted from that used by the health care authority as of the effective date of this section and modified pursuant to input and comments from the advisory committee;

(9) Prepare, grade, and administer, or supervise the grading and administration of written examinations for obtaining a license;

(10) Determine which states have licensing requirements equivalent to those of this state, and issue licenses to applicants credentialed in those states without examination;

(11) Define and approve any supervised experience requirements for licensure;

(12) Adopt rules implementing a continuing competency program; and

(13) Establish by rule the procedures for an appeal of an examination failure.

NEW SECTION. **Sec.**  (1) The Washington state licensed peer specialist advisory committee is established.

(2)(a) The advisory committee shall consist of 11 members. Nine members must be licensed peer specialists. Those nine members shall be inclusive of mental health peers, substance use disorder peers, community-based peers, peers who work in clinical settings, youth peers, adult peers, and peer supervisors. One member must represent community behavioral health agencies. One member must represent the public at large and may not be a credentialed behavioral health provider. The advisory committee shall be reflective of the community who receives peer services, including people who are Black, indigenous, people of color, and individuals who identify as LGBTQ. All members of the advisory committee must be residents of Washington state. Members may not hold an office in a professional association for peer specialists or be employed by the state.

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

(3) The department must adopt recommendations as submitted by the advisory committee on topics related to the administration of this chapter, including:

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

(b) Advice, recommendations, and consultation regarding case disposition guidelines and priorities related to unprofessional conduct cases regarding licensed peer specialists;

(c) Assistance, recommendations, and consultation of individual committee members as needed in the review, analysis, and disposition of reports of unprofessional conduct and service recipient complaints;

(d) Assistance and recommendations to enhance consumer education;

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

(f) Advice and guidance regarding criteria for licensure based on prior experience as a peer specialist attained before July 1, 2022, as described in section 5(2) of this act.

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

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

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

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

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

NEW SECTION. **Sec.**  (1) Beginning July 1, 2022, except as provided in subsection (2) of this section, the secretary shall issue a license to engage in the practice of peer support services to any applicant who demonstrates to the satisfaction of the secretary that the applicant meets the following requirements:

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

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

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

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

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

(d) Successful passage of a written examination approved by the department;

(e) Successful completion of an experience requirement of at least 1,000 supervised hours as a licensed peer specialist trainee engaged in the volunteer or paid practice of peer support services, in accordance with the standards in section 6 of this act; and

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

(2) The secretary, with the recommendation of the advisory committee, shall establish criteria for the issuance of a license to engage in the practice of peer support services based on prior experience as a peer specialist attained before July 1, 2022. The criteria shall establish equivalency standards necessary to be deemed to have met the requirements of subsection (1) of this section. An applicant under this subsection shall have until July 1, 2023, to complete any standards in which the applicant is determined to be deficient.

(3) A license to engage in the practice of peer support services is valid for two years. A license may be renewed upon demonstrating to the department that the licensed peer specialist has successfully completed 30 hours of continuing education approved by the department. As part of the continuing education requirement, every six years the applicant must submit proof of successful completion of at least three hours of suicide prevention training and three hours of ethics coursework.

(4) Beginning July 1, 2023, no person may engage in the practice of peer support services unless the person is licensed under this chapter or an exemption applies.

NEW SECTION. **Sec.**  (1) The secretary shall issue a license to engage in the practice of peer support services as a licensed peer specialist trainee to any applicant who demonstrates to the satisfaction of the secretary that the applicant meets the requirements of section 5 (1)(a), (b), (c), and (3) of this act and is working toward the supervised experience and written examination requirements to become a licensed peer specialist under this chapter.

(2) An applicant seeking to become a licensed peer specialist trainee under this section shall submit to the secretary for approval a declaration, in accordance with rules adopted by the department, that the licensed peer specialist trainee is actively pursuing the supervised experience requirements of section 5(1)(d) of this act. This declaration must be updated with the trainee's annual renewal.

(3) A licensed peer specialist trainee licensed under this section may practice only under the supervision of an approved supervisor. Supervision may be provided through distance supervision. Supervision may be provided by an approved supervisor who is employed by the same employer that employs the licensed peer specialist trainee or by an arrangement made with a third-party approved supervisor to provide supervision, or a combination of both types of approved supervisors.

(4) A licensed peer specialist trainee license is valid for one year and may only be renewed four times.

NEW SECTION. **Sec.**  (1) The date and location of written examinations must be established by the secretary. Applicants who have been found by the secretary to meet other requirements for obtaining a license must be scheduled for the next examination following the filing of the application. The secretary shall establish by rule the examination application deadline.

(2) The secretary or the secretary's designees shall administer written examinations to each applicant, by means determined most effective, on subjects appropriate to the scope of practice, as applicable. The examinations must be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

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

(4) Any applicant failing to make the required grade in the first written examination may take up to two subsequent written examinations as the applicant desires upon prepaying a fee determined by the secretary under RCW 43.70.250 for each subsequent written examination. Upon failing four written examinations, the secretary may invalidate the original application and require remedial education before the person may take future written examinations.

(5) The secretary may approve a written examination prepared or administered by a private organization that licenses and renews licenses for peer counselors, or an association of licensing agencies, for use by an applicant in meeting the credentialing requirements.

NEW SECTION. **Sec.**  The secretary shall establish, by rule, the requirements and fees for renewal of a license issued pursuant to this chapter. Failure to renew the license invalidates the license and all privileges granted by the license. If a license has lapsed for a period longer than three years, the person shall demonstrate competence to the satisfaction of the secretary by completing continuing competency requirements or meeting other standards determined by the secretary.

NEW SECTION. **Sec.**  A person licensed under this chapter must provide clients at the commencement of any program of treatment with accurate disclosure information concerning the practice, in accordance with rules adopted by the department, including the right of clients to refuse treatment, the responsibility of clients to choose the provider and treatment modality which best suits their needs, and the extent of confidentiality provided by this chapter. The disclosure information must also include the license holder's professional education and training and such other information as required by rule. The disclosure must be acknowledged in writing by the client and licensed peer specialist.

NEW SECTION. **Sec.**  The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice of peer support services, the issuance and denial of licenses, and the discipline of licensed peer specialists and licensed peer specialist trainees under this chapter.

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

(1)(a) By January 1, 2022, the authority must develop a course of instruction to become a licensed peer specialist under chapter 18.--- RCW (the new chapter created in section 18 of this act). The course must be approximately 80 hours in duration and based upon the curriculum offered by the authority in its peer specialist training as of the effective date of this section, as well as additional instruction in the principles of recovery coaching and suicide prevention. The education course must be taught by licensed peer specialists. The education course must be offered by the authority with sufficient frequency to accommodate the demand for training and the needs of the workforce. Upon completion of the education course, the student must pass an oral examination administered by the course trainer.

(b) The authority shall coordinate with the department to develop a process for the authority to confirm to the department that a student has successfully completed the licensed peer specialist education course offered under this subsection and successfully passed the associated oral examination and is eligible to take a qualifying written examination for applicants to become licensed peer specialists under chapter 18.--- RCW (the new chapter created in section 18 of this act);

(2) By January 1, 2022, the authority must develop a training course for licensed peer specialists providing supervision to licensed peer specialist trainees under section 6 of this act.

(3)(a) By July 1, 2022, the authority shall develop a 40-hour specialized training course in peer crisis response services for peer specialists licensed under chapter 18.--- RCW (the new chapter created in section 18 of this act) who are working as peer crisis responders. The training shall incorporate best practices for responding to 988 behavioral health crisis line calls, as well as processes for co-response with law enforcement when necessary.

(b) Beginning July 1, 2023, any entity that uses licensed peer specialists as peer crisis responders, may only use licensed peer specialists who have completed the training course established by (a) of this subsection. A behavioral health agency that uses licensed peer specialists to work as peer crisis responders must maintain the records of the completion of the training course for those licensed peer specialists who provide these services and make the records available to the state agency for auditing or licensing purposes.

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

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

Behavioral health agencies must reduce the caseload for approved supervisors who are providing supervision to licensed peer specialist trainees seeking licensure under chapter 18.--- RCW (the new chapter created in section 18 of this act), in accordance with standards established by the Washington state licensed peer specialist advisory committee.

NEW SECTION. **Sec.**  By January 1, 2022, the office of the insurance commissioner shall make recommendations to health carriers regarding appropriate use of licensed peer specialists, network adequacy for licensed peer specialists, and steps to incorporate licensed peer specialists into commercial provider networks.

**Sec.**  RCW 18.130.040 and 2019 c 444 s 11, 2019 c 308 s 18, and 2019 c 55 s 7 are each reenacted and amended to read as follows:

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

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

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

(ii) Midwives licensed under chapter 18.50 RCW;

(iii) Ocularists licensed under chapter 18.55 RCW;

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

(v) Dental hygienists licensed under chapter 18.29 RCW;

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

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

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

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

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

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

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

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

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

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

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

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

(xviii) Surgical technologists registered under chapter 18.215 RCW;

(xix) Recreational therapists under chapter 18.230 RCW;

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

(xxi) Athletic trainers licensed under chapter 18.250 RCW;

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

(xxiii) Genetic counselors licensed under chapter 18.290 RCW;

(xxiv) Reflexologists certified under chapter 18.108 RCW;

(xxv) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, forensic phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW; ((~~and~~))

(xxvi) Behavior analysts, assistant behavior analysts, and behavior technicians under chapter 18.380 RCW; and

(xxvii) Licensed peer specialists and licensed peer specialist trainees under chapter 18.--- RCW (the new chapter created in section 18 of this act).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(xv) The board of naturopathy established in chapter 18.36A RCW; and

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

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

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

**Sec.**  RCW 18.130.040 and 2020 c 80 s 23 are each amended to read as follows:

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

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

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

(ii) Midwives licensed under chapter 18.50 RCW;

(iii) Ocularists licensed under chapter 18.55 RCW;

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

(v) Dental hygienists licensed under chapter 18.29 RCW;

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

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

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

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

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

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

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

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

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

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

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

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

(xviii) Surgical technologists registered under chapter 18.215 RCW;

(xix) Recreational therapists under chapter 18.230 RCW;

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

(xxi) Athletic trainers licensed under chapter 18.250 RCW;

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

(xxiii) Genetic counselors licensed under chapter 18.290 RCW;

(xxiv) Reflexologists certified under chapter 18.108 RCW;

(xxv) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, forensic phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW; ((~~and~~))

(xxvi) Behavior analysts, assistant behavior analysts, and behavior technicians under chapter 18.380 RCW; and

(xxvii) Licensed peer specialists and licensed peer specialist trainees under chapter 18.--- RCW (the new chapter created in section 18 of this act).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(xv) The board of naturopathy established in chapter 18.36A RCW; and

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

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

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

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

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

The cost of the treatment shall be the responsibility of the license holder, but the responsibility does not preclude payment by an employer, existing insurance coverage, or other sources. Primary alcoholism or other drug addiction treatment shall be provided by approved treatment programs under RCW 70.96A.020 or by any other provider approved by the entity or the commission. However, nothing shall prohibit the disciplining authority from approving additional services and programs as an adjunct to primary alcoholism or other drug addiction treatment. The disciplining authority may also approve the use of out-of-state programs. Referral of the license holder to the program shall be done only with the consent of the license holder. Referral to the program may also include probationary conditions for a designated period of time. If the license holder does not consent to be referred to the program or does not successfully complete the program, the disciplining authority may take appropriate action under RCW 18.130.160 which includes suspension of the license unless or until the disciplining authority, in consultation with the director of the voluntary substance abuse monitoring program, determines the license holder is able to practice safely. The secretary shall adopt uniform rules for the evaluation by the disciplining authority of a relapse or program violation on the part of a license holder in the substance abuse monitoring program. The evaluation shall encourage program participation with additional conditions, in lieu of disciplinary action, when the disciplining authority determines that the license holder is able to continue to practice with reasonable skill and safety.

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

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

(4) The treatment and pretreatment records of license holders referred to or voluntarily participating in approved programs shall be confidential, shall be exempt from chapter 42.56 RCW, and shall not be subject to discovery by subpoena or admissible as evidence except for monitoring records reported to the disciplining authority for cause as defined in subsection (3) of this section. Monitoring records relating to license holders referred to the program by the disciplining authority or relating to license holders reported to the disciplining authority by the program for cause, shall be released to the disciplining authority at the request of the disciplining authority. Records held by the disciplining authority under this section shall be exempt from chapter 42.56 RCW and shall not be subject to discovery by subpoena except by the license holder.

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

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

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

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

(i) An approved monitoring treatment program;

(ii) The professional association operating the program;

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

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

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

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

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

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

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

(b) 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.

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

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

~~(b) 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~~)) The provisions of subsection (8) of this section apply to any person employed as a peer specialist as of July 1, 2022, participating in a program under this section as of July 1, 2022, and applying to become a licensed peer specialist under section 5 of this act, regardless of when the person's participation in a program began. To this extent, subsection (8) of this section applies retroactively, but in all other respects it applies prospectively.

**Sec.**  RCW 43.43.842 and 2019 c 446 s 44 and 2019 c 444 s 22 are each reenacted and amended to read as follows:

(1)(a) The secretary of social and health services and the secretary of health shall adopt additional requirements for the licensure or relicensure of agencies, facilities, and licensed individuals who provide care and treatment to vulnerable adults, including nursing pools registered under chapter 18.52C RCW. These additional requirements shall ensure that any person associated with a licensed agency or facility having unsupervised access with a vulnerable adult shall not be the respondent in an active protective order under RCW 74.34.130, nor have been: (i) Convicted of a crime against children or other persons as defined in RCW 43.43.830, except as provided in this section; (ii) convicted of crimes relating to financial exploitation as defined in RCW 43.43.830, except as provided in this section; or (iii) found in any disciplinary board final decision to have abused a vulnerable adult ((~~under~~)) as defined in RCW 43.43.830.

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) 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 a mental health disorder.

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

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

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

~~(c) 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.~~

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

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

NEW SECTION. **Sec.**  Section 14 of this act expires July 1, 2022.

NEW SECTION. **Sec.**  Section 15 of this act takes effect July 1, 2022.

**--- END ---**