
HOUSE BILL 1865

State of Washington

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By Representatives Davis, Caldier, Callan, Dent, Duerr, Goodman, Macri, Senn, Wylie, Paul, Sullivan, Simmons, Chopp, Slatter, Bergquist, Valdez, Pollet, Ormsby, Graham, and Frame

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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 a new section; 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, 2025, 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) Hire clerical, administrative, investigative, and other staff
23 as needed to implement this chapter to serve as examiners for any
24 practical examinations;

25 (6) Coordinate with the health care authority to confirm an
26 applicants' successful completion of the certified peer specialist
27 education course offered by the health care authority under section
28 11 of this act and successful passage of the associated oral
29 examination as proof of eligibility to take a qualifying written
30 examination for applicants for obtaining a certificate;

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

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

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

1 (10) Determine which states have credentialing requirements
2 equivalent to those of this state, and issue certificates to
3 applicants credentialed in those states without examination;

4 (11) Define and approve any supervised experience requirements
5 for certification;

6 (12) Establish criteria for the approval of apprenticeship
7 programs, with the recommendation of the advisory committee, that
8 have been registered and approved under chapter 49.04 RCW and approve
9 those apprenticeship programs that meet the criteria;

10 (13) Adopt rules implementing a continuing competency program;
11 and

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

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

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

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

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

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

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

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

10 (d) Assistance and recommendations to enhance patient and client
11 education;

12 (e) Assistance and recommendations regarding the written and oral
13 examination to become a certified peer specialist;

14 (f) Assistance and recommendations regarding any continuing
15 education and continuing competency programs administered under the
16 provisions of this chapter; and

17 (g) Advice and guidance regarding criteria for certification
18 based on prior experience as a peer specialist attained before July
19 1, 2023, as described in section 6(2) of this act.

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

23 (5) Committee members shall be compensated in accordance with RCW
24 43.03.240, including travel expenses in carrying out his or her
25 authorized duties in accordance with RCW 43.03.050 and 43.03.060.

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

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

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

37 NEW SECTION. **Sec. 6.** (1) Beginning July 1, 2023, except as
38 provided in subsections (2) and (3) of this section, the secretary

1 shall issue a certificate to engage in the practice of peer support
2 services to any applicant who demonstrates to the satisfaction of the
3 secretary that the applicant meets the following requirements:

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

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

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

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

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

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

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

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

22 (2) The secretary, with the recommendation of the advisory
23 committee, shall establish criteria for the issuance of a certificate
24 to engage in the practice of peer support services based on prior
25 experience as a peer specialist attained before July 1, 2023. The
26 criteria shall establish equivalency standards necessary to be deemed
27 to have met the requirements of subsection (1) of this section. An
28 applicant under this subsection shall have until July 1, 2024, to
29 complete any standards in which the applicant is determined to be
30 deficient.

31 (3) The secretary, with the recommendation of the advisory
32 committee, shall establish criteria for the issuance of a certificate
33 to engage in the practice of peer support services based on
34 completion of an apprenticeship program registered and approved under
35 chapter 49.04 RCW and approved by the secretary under section 3 of
36 this act.

37 (4) A certificate to engage in the practice of peer support
38 services is valid for two years. A certificate may be renewed upon
39 demonstrating to the department that the certified peer specialist
40 has successfully completed 30 hours of continuing education approved

1 by the department. As part of the continuing education requirement,
2 every six years the applicant must submit proof of successful
3 completion of at least three hours of suicide prevention training and
4 three hours of ethics coursework.

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

9 (a) The applicant meets the requirements of section 6 (1)(a),
10 (b), (c), and (4) of this act and is working toward the supervised
11 experience and written examination requirements to become a certified
12 peer specialist under this chapter; or

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

16 (2) An applicant seeking to become a certified peer specialist
17 trainee under this section shall submit to the secretary for approval
18 a declaration, in accordance with rules adopted by the department,
19 that the certified peer specialist trainee is actively pursuing the
20 supervised experience requirements of section 6(1)(d) of this act.
21 This declaration must be updated with the trainee's annual renewal.

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

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

32 NEW SECTION. **Sec. 8.** (1) The date and location of written
33 examinations must be established by the secretary. Applicants who
34 have been found by the secretary to meet other requirements for
35 obtaining a certificate must be scheduled for the next examination
36 following the filing of the application. The secretary shall
37 establish by rule the examination application deadline.

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

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

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

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

24 NEW SECTION. **Sec. 9.** The secretary shall establish, by rule,
25 the requirements and fees for renewal of a certificate issued
26 pursuant to this chapter. Failure to renew the certificate
27 invalidates the certificate and all privileges granted by the
28 certificate. If a certificate has lapsed for a period longer than
29 three years, the person shall demonstrate competence to the
30 satisfaction of the secretary by completing continuing competency
31 requirements or meeting other standards determined by the secretary.

32 NEW SECTION. **Sec. 10.** The uniform disciplinary act, chapter
33 18.130 RCW, governs uncertified practice of peer support services,
34 the issuance and denial of certificates, and the discipline of
35 certified peer specialists and certified peer specialist trainees
36 under this chapter.

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 71.24

2 RCW to read as follows:

3 (1) (a) By January 1, 2023, the authority must develop a course of
4 instruction to become a certified peer specialist under chapter
5 18.--- RCW (the new chapter created in section 18 of this act). The
6 course must be approximately 80 hours in duration and based upon the
7 curriculum offered by the authority in its peer specialist training
8 as of the effective date of this section, as well as additional
9 instruction in the principles of recovery coaching and suicide
10 prevention. The education course must be taught by certified peer
11 specialists. The education course must be offered by the authority
12 with sufficient frequency to accommodate the demand for training and
13 the needs of the workforce. Upon completion of the education course,
14 the student must pass an oral examination administered by the course
15 trainer.

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

24 (2) By January 1, 2023, the authority must develop a training
25 course for certified peer specialists providing supervision to
26 certified peer specialist trainees under section 7 of this act.

27 (3) (a) By July 1, 2023, the authority shall develop a 40-hour
28 specialized training course in peer crisis response services for peer
29 specialists certified under chapter 18.--- RCW (the new chapter
30 created in section 18 of this act) who are working as peer crisis
31 responders. The training shall incorporate best practices for
32 responding to 988 behavioral health crisis line calls, as well as
33 processes for co-response with law enforcement when necessary.

34 (b) Beginning July 1, 2024, any entity that uses certified peer
35 specialists as peer crisis responders, may only use certified peer
36 specialists who have completed the training course established by (a)
37 of this subsection. A behavioral health agency that uses certified
38 peer specialists to work as peer crisis responders must maintain the
39 records of the completion of the training course for those certified

1 peer specialists who provide these services and make the records
2 available to the state agency for auditing or certification purposes.

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

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

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

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

19 A person who is registered as an agency-affiliated counselor
20 under chapter 18.19 RCW who engages in the practice of peer support
21 services and whose agency, as defined in RCW 18.19.020, bills medical
22 assistance for those services must hold a certificate as a certified
23 peer specialist or certified peer specialist trainee under chapter
24 18.--- RCW (the new chapter created in section 18 of this act) no
25 later than January 1, 2025.

26 NEW SECTION. **Sec. 14.** By January 1, 2023, the office of the
27 insurance commissioner shall make recommendations to health carriers
28 regarding appropriate use of certified peer specialists, network
29 adequacy for certified peer specialists, and steps to incorporate
30 certified peer specialists into commercial provider networks.

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

33 (1) This chapter applies only to the secretary and the boards and
34 commissions having jurisdiction in relation to the professions
35 licensed under the chapters specified in this section. This chapter

1 does not apply to any business or profession not licensed under the
2 chapters specified in this section.

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

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

7 (ii) Midwives licensed under chapter 18.50 RCW;

8 (iii) Ocularists licensed under chapter 18.55 RCW;

9 (iv) Massage therapists and businesses licensed under chapter
10 18.108 RCW;

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

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

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

16 (viii) Respiratory care practitioners licensed under chapter
17 18.89 RCW;

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

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

25 (xi) Persons registered as nursing pool operators under chapter
26 18.52C RCW;

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

29 (xiii) Dietitians and nutritionists certified under chapter
30 18.138 RCW;

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

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

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

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

1 (xviii) Surgical technologists registered under chapter 18.215
2 RCW;

3 (xix) Recreational therapists under chapter 18.230 RCW;

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

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

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

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

9 (xxiv) Reflexologists certified under chapter 18.108 RCW;

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

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

16 (xxvii) Certified peer specialists and certified peer specialist
17 trainees under chapter 18.--- RCW (the new chapter created in section
18 18 of this act).

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

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

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

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

29 (iv) The board of hearing and speech as established in chapter
30 18.35 RCW;

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

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

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

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

1 (ix) The Washington medical commission as established in chapter
2 18.71 RCW governing licenses and registrations issued under chapters
3 18.71 and 18.71A RCW;

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

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

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

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

13 (xiv) The veterinary board of governors as established in chapter
14 18.92 RCW;

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

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

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

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

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

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

33 The cost of the treatment shall be the responsibility of the
34 license holder, but the responsibility does not preclude payment by
35 an employer, existing insurance coverage, or other sources. Primary
36 alcoholism or other drug addiction treatment shall be provided by
37 approved treatment programs under RCW 70.96A.020 or by any other
38 provider approved by the entity or the commission. However, nothing
39 shall prohibit the disciplining authority from approving additional

1 services and programs as an adjunct to primary alcoholism or other
2 drug addiction treatment. The disciplining authority may also approve
3 the use of out-of-state programs. Referral of the license holder to
4 the program shall be done only with the consent of the license
5 holder. Referral to the program may also include probationary
6 conditions for a designated period of time. If the license holder
7 does not consent to be referred to the program or does not
8 successfully complete the program, the disciplining authority may
9 take appropriate action under RCW 18.130.160 which includes
10 suspension of the license unless or until the disciplining authority,
11 in consultation with the director of the voluntary substance abuse
12 monitoring program, determines the license holder is able to practice
13 safely. The secretary shall adopt uniform rules for the evaluation by
14 the disciplining authority of a relapse or program violation on the
15 part of a license holder in the substance abuse monitoring program.
16 The evaluation shall encourage program participation with additional
17 conditions, in lieu of disciplinary action, when the disciplining
18 authority determines that the license holder is able to continue to
19 practice with reasonable skill and safety.

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

31 (3) The license holder shall sign a waiver allowing the program
32 to release information to the disciplining authority if the licensee
33 does not comply with the requirements of this section or is unable to
34 practice with reasonable skill or safety. The substance abuse program
35 shall report to the disciplining authority any license holder who
36 fails to comply with the requirements of this section or the program
37 or who, in the opinion of the program, is unable to practice with
38 reasonable skill or safety. License holders shall report to the
39 disciplining authority if they fail to comply with this section or do
40 not complete the program's requirements. License holders may, upon

1 the agreement of the program and disciplining authority, reenter the
2 program if they have previously failed to comply with this section.

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

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

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

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

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

30 (i) An approved monitoring treatment program;

31 (ii) The professional association operating the program;

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

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

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

39 (b) The courts are strongly encouraged to impose sanctions on
40 clients and their attorneys whose allegations under this subsection

1 are not made in good faith and are without either reasonable
2 objective, substantive grounds, or both.

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

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

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

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

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

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

28 ~~(b) At least one year in recovery from a substance use disorder,~~
29 ~~the person may not be required to participate in the substance abuse~~
30 ~~monitoring program)) The provisions of subsection (8) of this section
31 apply to any person employed as a peer specialist as of July 1, 2023,
32 participating in a program under this section as of July 1, 2023, and
33 applying to become a certified peer specialist under section 6 of
34 this act, regardless of when the person's participation in a program
35 began. To this extent, subsection (8) of this section applies
36 retroactively, but in all other respects it applies prospectively.~~

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

1 (1) (a) The secretary of social and health services and the
2 secretary of health shall adopt additional requirements for the
3 licensure or relicensure of agencies, facilities, and licensed
4 individuals who provide care and treatment to vulnerable adults,
5 including nursing pools registered under chapter 18.52C RCW. These
6 additional requirements shall ensure that any person associated with
7 a licensed agency or facility having unsupervised access with a
8 vulnerable adult shall not be the respondent in an active vulnerable
9 adult protection order under chapter 7.105 RCW, nor have been: (i)
10 Convicted of a crime against children or other persons as defined in
11 RCW 43.43.830, except as provided in this section; (ii) convicted of
12 crimes relating to financial exploitation as defined in RCW
13 43.43.830, except as provided in this section; or (iii) found in any
14 disciplinary board final decision to have abused a vulnerable adult
15 as defined in RCW 43.43.830.

16 (b) A person associated with a licensed agency or facility who
17 has unsupervised access with a vulnerable adult shall make the
18 disclosures specified in RCW 43.43.834(2). The person shall make the
19 disclosures in writing, sign, and swear to the contents under penalty
20 of perjury. The person shall, in the disclosures, specify all crimes
21 against children or other persons, all crimes relating to financial
22 exploitation, and all crimes relating to drugs as defined in RCW
23 43.43.830, committed by the person.

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

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

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

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

39 (d) The offense was theft in the second degree, or the same
40 offense as it may be renamed, and five or more years have passed

1 between the most recent conviction and the date of application for
2 employment;

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

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

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

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

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

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

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

32 (c) The applicant is at least one year in recovery from a
33 substance use disorder, whether through abstinence or stability on
34 medication-assisted therapy, or in recovery from a mental health
35 disorder.

36 ~~(4) ((The rules adopted pursuant to subsection (2) of this~~
37 ~~section may not allow a licensee to automatically deny an applicant~~
38 ~~with a conviction for an offense set forth in subsection (2) of this~~
39 ~~section for a position as an agency affiliated counselor registered~~

1 under chapter 18.19 RCW practicing as a peer counselor in an agency
2 or facility if:

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

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

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

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

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

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

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