

1 SENATE BILL NO. 62

2 INTRODUCED BY C. WOLKEN

3 BY REQUEST OF THE COMMISSION ON SENTENCING

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR CERTIFICATION AND REGULATION OF
6 BEHAVIORAL HEALTH PEER SUPPORT SPECIALISTS; ESTABLISHING CERTIFICATION REQUIREMENTS;
7 AND PROVIDING RULEMAKING AUTHORITY TO THE BOARD OF BEHAVIORAL HEALTH."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 NEW SECTION. **Section 1. Behavioral health peer support specialist.** The profession of behavioral
12 health peer support specialist is subject to certification requirements set forth in this chapter and by rules
13 promulgated by the board of behavioral health.

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15 NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 5], the following definitions
16 apply:

17 (1) "Behavioral health" includes a person with a diagnosis of:

18 (a) a mental disorder, as that term is defined in 53-21-102; or

19 (b) chemical dependency, as that term is defined in 53-24-103.

20 (2) "Behavioral health peer support" means the use of a peer support specialist's personal experience
21 with a behavioral health disorder to provide support, mentoring, guidance, and advocacy and to offer hope to
22 individuals with mental disorders.

23 (3) "Board" means the board of behavioral health established under 2-15-1744.

24 (4) "Certified behavioral health peer support specialist" means a person who:

25 (a) has experienced and is in recovery from a mental disorder;

26 (b) has obtained the education and skills needed to provide therapeutic support to individuals with
27 behavioral health disorders; and

28 (c) possesses a valid and current certification.

29 (5) "Mental health professional" means:

30 (a) a physician licensed under Title 37, chapter 3;

- 1 (b) a psychologist licensed under Title 37, chapter 17;
 2 (c) a social worker licensed under Title 37, chapter 22;
 3 (d) a professional counselor licensed under Title 37, chapter 23; or
 4 (e) an advanced practice registered nurse, as provided for in 37-8-202, with a clinical specialty in
 5 psychiatric mental health nursing.

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 7 **NEW SECTION. Section 3. Certification required -- exceptions.** (1) Upon certification in accordance
 8 with this chapter, a person may use the title "certified behavioral health peer support specialist" or "behavioral
 9 health peer support specialist".

10 (2) Subsection (1) does not prohibit a qualified member of another profession, such as a physician,
 11 lawyer, psychologist, pastoral counselor, probation officer, court employee, nurse, school counselor, educator,
 12 chemical dependency counselor accredited by a federal agency, clinical social worker licensed pursuant to Title
 13 37, chapter 22, clinical professional counselor licensed pursuant to Title 37, chapter 23, addiction counselor
 14 licensed pursuant to Title 37, chapter 35, or marriage and family therapist licensed pursuant to Title 37, chapter
 15 37, from performing duties and services consistent with the person's licensure or certification and the code of
 16 ethics of the person's profession.

17 (3) Subsection (1) does not prohibit a qualified member of another profession, business, educational
 18 program, or volunteer organization who is not licensed or certified or for whom there is no applicable code of
 19 ethics, including peer mentors, advocates, and coaches, from performing duties and services consistent with the
 20 person's training, as long as the person does not represent by title that the person is engaging in the practice of
 21 behavioral health peer support.

22
 23 **NEW SECTION. Section 4. Certificate requirements -- supervision -- fees.** (1) A person may apply
 24 for certification as a behavioral health peer support specialist if the person has attested to the fact that the person:

- 25 (a) has been diagnosed by a behavioral health professional as having a behavioral health disorder;
 26 (b) has received treatment; and
 27 (c) is in recovery, as defined by the board by rule, from a behavioral health disorder.

28 (2) An applicant shall submit a written application on a form provided by the board and an application
 29 fee established by the board by rule. After initial certification, the board may not require recertification more often
 30 than every 3 years. The initial application fee may not exceed \$300. The recertification fee may not exceed \$150.

1 (3) An applicant must have:

2 (a) successfully completed a training course in behavioral health peer support, as defined by the board
3 by rule, which must include a module in ethics; and

4 (b) verified the applicant's ability to perform all essential functions of the certified peer support role
5 through the application and certification process provided for by the board.

6 (4) As a prerequisite to the issuance of a certificate, the board shall require the applicant to submit
7 fingerprints for the purpose of fingerprint background checks by the Montana department of justice and the federal
8 bureau of investigation as provided in 37-1-307.

9 (5) Pursuant to 37-1-203, an applicant who has a history of criminal convictions has the opportunity to
10 demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust. The board may
11 deny the license if it determines that the applicant is not sufficiently rehabilitated.

12 (6) Supervision of a certified behavioral health peer support specialist must be provided by a competent
13 mental health professional or licensed addiction counselor. The amount, duration, and scope of supervision may
14 vary depending on the demonstrated competency and experience of the peer support specialist, as well as the
15 service mix. Supervision may range from direct oversight to periodic care consultation. The board may create
16 guidelines for supervision but must allow for flexibility in the provision of peer support services.

17 (7) In selecting approved training courses as required in subsection (3), the board shall provide as much
18 flexibility and inclusivity as possible to applicants. The board shall review existing training materials from national,
19 regional, and state agencies and organizations, including existing Montana-based peer support providers, that
20 adequately address the essential functions of the certified peer support role and shall include those materials as
21 possible. The board may not exclude a training course from the list of approved courses solely because the
22 training course was created by or is provided by a faith-based or culturally based entity, association, tribe, church,
23 or educational institution.

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25 **NEW SECTION. Section 5. Privileged communications -- exceptions.** (1) Certified behavioral health
26 peer support specialists work in health care teams. Communication among team members that is essential for
27 the supported individual's recovery must be defined and established by board rule.

28 (2) A certified behavioral health peer support specialist may not disclose any information the peer support
29 specialist acquires from an individual to whom the peer support specialist provides behavioral health peer support
30 except:

1 (a) with the written consent of the individual or, in the case of the individual's death or mental incapacity,
2 with the written consent of the individual's personal representative or guardian;

3 (b) when a communication that otherwise would be confidential reveals that the individual or another
4 person is contemplating the commission of a crime or in the behavioral health peer support specialist's
5 professional opinion reveals a threat of imminent harm to the individual or others;

6 (c) that if the individual is a minor and information acquired by the certified behavioral health peer support
7 specialist indicates that the minor was the victim of a crime, the peer support specialist may be required to testify
8 fully in relation to the information in any investigation, trial, or other legal proceeding in which the commission of
9 that crime is the subject of inquiry;

10 (d) that if the individual or the individual's personal representative or guardian brings an action against
11 a certified behavioral health peer support specialist for a claim arising out of the peer support specialist's
12 professional relationship with the individual, the individual is considered to have waived any privilege;

13 (e) to the extent that the privilege is otherwise waived by the individual; and

14 (f) as may otherwise be required by law.

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16 **NEW SECTION. Section 6. Codification instruction.** [Sections 1 through 5] are intended to be codified
17 as an integral part of Title 37, and the provisions of Title 37 apply to [sections 1 through 5].

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