

1 SENATE BILL NO. 198
2 INTRODUCED BY J. GROSS, M. CAFERRO, S. O'BRIEN, J. SMALL, S. STEWART PEREGOY, B. USHER,
3 R. LYNCH
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO BEHAVIORAL HEALTH PEER
6 SUPPORT SPECIALISTS; PROVIDING FOR LICENSURE OF PEER SUPPORT SPECIALISTS;
7 ESTABLISHING LICENSING REQUIREMENTS; ESTABLISHING REQUIREMENTS FOR CANDIDATES FOR
8 LICENSURE; SPECIFYING REQUIREMENTS FOR SUPERVISION OF PEER SUPPORT SPECIALISTS AND
9 LICENSURE CANDIDATES; AND AMENDING SECTIONS 37-38-101, 37-38-102, 37-38-106, 37-38-201, ~~AND~~
10 37-38-202, AND 53-6-101, MCA."
11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13

14 NEW SECTION. **Section 1. Behavioral health peer support specialist licensure candidate --**
15 **registration requirements -- standards.** (1) A person who has completed the training requirements for
16 licensure under 37-38-202 but who has not completed the supervised training and work experience required for
17 licensure shall register as a behavioral health peer support licensure candidate in order to engage in behavioral
18 health peer support and earn the supervised training and experience required for licensure.

- 19 (2) To register, the person shall submit:
- 20 (a) the attestation required under 37-38-202(1);
 - 21 (b) the application and fee required by the board;
 - 22 (c) proof of completion of the training requirement;
 - 23 (d) fingerprints for the purpose of fingerprint background checks by the Montana department of
24 justice and the federal bureau of investigation as provided in 37-1-307; and
 - 25 (e) a training and supervision plan that meets requirements set by the board.
- 26 (3) A licensure candidate shall complete 1,000 hours of supervised training and work experience
27 before applying for licensure. At a minimum, the supervised experience must include:

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- 1 (a) 200 hours of one-on-one direct behavioral health peer support;
- 2 (b) 10 hours facilitating or cofacilitating peer-led groups; and
- 3 (c) continuing education consisting of:
- 4 (i) 12 hours related to suicide prevention and intervention;
- 5 (ii) 10 hours related to professional boundaries and ethical responsibilities;
- 6 (iii) 6 hours related to self-care and wellness;
- 7 (iv) 6 hours related to professional development for behavioral health peer support specialists;
- 8 (v) 4 hours related to deescalation strategies; and
- 9 (vi) 2 hours related to opiate overdose prevention and intervention.
- 10 (4) A competent mental health professional must provide 1 hour of face-to-face supervision for
- 11 every 20 hours of supervised behavioral health peer support activities, other than continuing education,
- 12 required under subsection (3).
- 13 (5) Following satisfaction of the requirements of subsection (2) and approval by the board, a
- 14 person may engage in behavioral health peer support under the conditions set by the board and use the title of
- 15 "behavioral health peer support specialist licensure candidate".
- 16 (6) A licensure candidate shall conform to the standards of conduct applicable to a licensed
- 17 behavioral health peer support specialist. Unprofessional conduct or failure to satisfy the training and work
- 18 requirements or other conditions set by the board may result in disciplinary action, sanctions, or other restriction
- 19 of a person's authorization to act as a behavioral health peer support specialist licensure candidate.
- 20 (7) A person shall register annually as a behavioral health peer support specialist licensure
- 21 candidate. The board may limit the number of years that a person may act as a licensure candidate.

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23 **Section 2.** Section 37-38-101, MCA, is amended to read:

24 **"37-38-101. Behavioral health peer support specialist.** The profession of behavioral health peer

25 support specialist is subject to ~~certification~~licensure requirements set forth in this chapter and by rules

26 promulgated by the board of behavioral health."

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1 **Section 3.** Section 37-38-102, MCA, is amended to read:

2 **"37-38-102. Definitions.** As used in this chapter, the following definitions apply:

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

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

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

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

9 (3) "Behavioral health peer support specialist" means a person who:

10 (a) has experienced and is in recovery from a behavioral health disorder;

11 (b) has obtained the education and skills needed to provide recovery support to individuals with
12 behavioral health disorders; and

13 (c) possesses a valid and current license.

14 ~~(3)(4)~~ "Board" means the board of behavioral health established under 2-15-1744.

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

16 ~~(a) has experienced and is in recovery from a behavioral health disorder;~~

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

19 ~~(c) possesses a valid and current certification.~~

20 (5) "Mental health professional" means:

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

22 (b) a psychologist licensed under Title 37, chapter 17;

23 (c) a social worker licensed under Title 37, chapter 22;

24 (d) a professional counselor licensed under Title 37, chapter 23;

25 (e) an advanced practice registered nurse, as provided for in 37-8-202, with a clinical specialty in
26 psychiatric mental health nursing;

27 (f) a marriage and family therapist licensed under Title 37, chapter 37; or

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1 (g) a licensed addiction counselor licensed under Title 37, chapter 35."

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3 **Section 4.** Section 37-38-106, MCA, is amended to read:

4 **"37-38-106. Privileged communications -- exceptions.** (1) ~~Certified behavioral~~ Licensed behavioral
5 health peer support specialists and licensure candidates work in health care teams. Communication among
6 team members that is essential for the supported individual's recovery must be defined and established by
7 board rule.

8 (2) A ~~certified-licensed~~ behavioral health peer support specialist or licensure candidate may not
9 disclose any information the behavioral health peer support specialist or licensure candidate acquires from an
10 individual to whom the behavioral health peer support specialist or licensure candidate provides behavioral
11 health peer support except only:

12 (a) when the behavioral health peer support specialist or licensure candidate has:

13 (a)(i) ~~with~~ obtained the written consent of the individual or, in the case of the individual's death or
14 mental incapacity, ~~with~~ the written consent of the individual's personal representative or guardian;

15 (b)(ii) ~~when~~ received a communication that otherwise would be confidential but reveals that the
16 individual or another person is contemplating the commission of a crime; or

17 (iii) determined that a communication that would otherwise be confidential in the behavioral health
18 peer support specialist's professional opinion reveals a threat of imminent harm to the individual or others;

19 (c)(iv) that if the individual is in the case of a minor, and acquired information acquired by the certified
20 behavioral health peer support specialist that indicates that the minor was the victim of a crime, the peer
21 support specialist may be and the behavioral health peer support specialist or licensure candidate is required to
22 testify fully in relation to the information in any investigation, trial, or other legal proceeding in which the
23 commission of that crime is the subject of inquiry;

24 (d)(v) been named in an action brought by that if the an individual or the individual's personal
25 representative or guardian brings an action against a certified behavioral health peer support specialist for a
26 claim arising out of the behavioral health peer support specialist's or licensure candidate's professional
27 relationship with the individual, In that instance, the individual is considered to have waived any privilege;

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1 ~~(e)~~(b) to the extent that the privilege is otherwise waived by the individual; and
2 ~~(f)~~(c) as may otherwise be required by law."

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4 **Section 5.** Section 37-38-201, MCA, is amended to read:

5 **"37-38-201. Certification Licensure required -- exceptions.** ~~(1) Upon certification~~ Following
6 licensure in accordance with this chapter, a person may use the title "certified licensed behavioral health peer
7 support specialist" or "behavioral health peer support specialist".

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

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

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21 **Section 6.** Section 37-38-202, MCA, is amended to read:

22 **"37-38-202. Certificate Licensure requirements -- supervision -- fees.** (1) A person may apply for
23 ~~certification~~ licensure as a behavioral health peer support specialist if the person has attested to the fact that
24 the person:

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

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1 (2) An applicant shall submit a written application on a form provided by the board and an
2 application fee prescribed by the board. A person must be ~~recertified~~relicensed annually using a process
3 specified by the board by rule, including payment of a fee prescribed by the board.

4 (3) An applicant must have:

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

7 (b) verified the applicant's ability to perform all essential functions of the ~~certified~~ peer support role
8 through the application and ~~certification~~licensure process provided for by the board; ~~and~~

9 (c) provided proof of completion of 1,000 hours of supervised behavioral health peer support
10 training and work experience as required under [section 1].

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

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

17 (6) ~~(a) Supervision of a certified behavioral health peer support specialist must be provided by a~~
18 ~~competent mental health professional must provide 1 hour of face-to-face supervision for every 40 hours of~~
19 ~~behavioral health peer support provided by a licensed behavioral health peer support specialist. The amount,~~
20 ~~duration, and scope of supervision may vary depending on the demonstrated competency and experience of~~
21 ~~the peer support specialist, as well as the service mix. Supervision may range from direct oversight to periodic~~
22 ~~care consultation. The board may create guidelines for supervision but must allow for flexibility in the provision~~
23 ~~of behavioral health peer support services.~~

24 (b) Supervision under this subsection (6) must be provided by a physician, a psychologist, an
25 advanced practice registered nurse with a clinical specialty in psychiatric mental health nursing, a clinical social
26 worker, a clinical professional counselor, a marriage and family therapist, or an addiction counselor.

27 (c) The individual providing supervision must:

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- 1 (i) have an active license in good standing in Montana; and
- 2 (ii) have been licensed for a minimum of 3 years, excluding licensure as a candidate; or
- 3 (iii) have at least 20 hours of board-approved training in supervision.
- 4 (7) In selecting approved training courses as required in subsection (3), the board shall provide as
- 5 much flexibility and inclusivity as possible to applicants. The board shall review existing training materials from
- 6 national, regional, and state agencies and organizations, including existing Montana-based peer support
- 7 providers, that adequately address the essential functions of the certified peer support role and shall include
- 8 those materials as possible. The board may not exclude a training course from the list of approved courses
- 9 solely because the training course was created by or is provided by a faith-based or culturally based entity,
- 10 association, tribe, church, or educational institution."

Section 7. Section 53-6-101, MCA, is amended to read:

"53-6-101. Montana medicaid program -- authorization of services. (1) There is a Montana medicaid program established for the purpose of providing necessary medical services to eligible persons who have need for medical assistance. The Montana medicaid program is a joint federal-state program administered under this chapter and in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq. The department shall administer the Montana medicaid program.

(2) The department and the legislature shall consider the following funding principles when considering changes in medicaid policy that either increase or reduce services:

(a) protecting those persons who are most vulnerable and most in need, as defined by a combination of economic, social, and medical circumstances;

(b) giving preference to the elimination or restoration of an entire medicaid program or service, rather than sacrifice or augment the quality of care for several programs or services through dilution of funding; and

(c) giving priority to services that employ the science of prevention to reduce disability and illness, services that treat life-threatening conditions, and services that support independent or assisted living, including pain management, to reduce the need for acute inpatient or residential care.

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- 1 (3) Medical assistance provided by the Montana medicaid program includes the following services:
- 2 (a) inpatient hospital services;
- 3 (b) outpatient hospital services;
- 4 (c) other laboratory and x-ray services, including minimum mammography examination as defined
- 5 in 33-22-132;
- 6 (d) skilled nursing services in long-term care facilities;
- 7 (e) physicians' services;
- 8 (f) nurse specialist services;
- 9 (g) early and periodic screening, diagnosis, and treatment services for persons under 21 years of
- 10 age, in accordance with federal regulations and subsection (10)(b);
- 11 (h) ambulatory prenatal care for pregnant women during a presumptive eligibility period, as
- 12 provided in 42 U.S.C. 1396a(a)(47) and 42 U.S.C. 1396r-1;
- 13 (i) targeted case management services, as authorized in 42 U.S.C. 1396n(g), for high-risk
- 14 pregnant women;
- 15 (j) services that are provided by physician assistants within the scope of their practice and that are
- 16 otherwise directly reimbursed as allowed under department rule to an existing provider;
- 17 (k) health services provided under a physician's orders by a public health department;
- 18 (l) federally qualified health center services, as defined in 42 U.S.C. 1396d(l)(2);
- 19 (m) routine patient costs for qualified individuals enrolled in an approved clinical trial for cancer as
- 20 provided in 33-22-153;
- 21 (n) for children 18 years of age and younger, habilitative services as defined in 53-4-1103; and
- 22 (o) services provided by a person certified in accordance with 37-2-318 to provide services in
- 23 accordance with the Indian Health Care Improvement Act, 25 U.S.C. 1601, et seq.
- 24 (4) Medical assistance provided by the Montana medicaid program may, as provided by
- 25 department rule, also include the following services:
- 26 (a) medical care or any other type of remedial care recognized under state law, furnished by
- 27 licensed practitioners within the scope of their practice as defined by state law;

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- 1 (b) home health care services;
- 2 (c) private-duty nursing services;
- 3 (d) dental services;
- 4 (e) physical therapy services;
- 5 (f) mental health center services administered and funded under a state mental health program
- 6 authorized under Title 53, chapter 21, part 10;
- 7 (g) clinical social worker services;
- 8 (h) prescribed drugs, dentures, and prosthetic devices;
- 9 (i) prescribed eyeglasses;
- 10 (j) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;
- 11 (k) inpatient psychiatric hospital services for persons under 21 years of age;
- 12 (l) services of professional counselors licensed under Title 37, chapter 23;
- 13 (m) hospice care, as defined in 42 U.S.C. 1396d(o);
- 14 (n) case management services, as provided in 42 U.S.C. 1396d(a) and 1396n(g), including
- 15 targeted case management services for the mentally ill;
- 16 (o) services of psychologists licensed under Title 37, chapter 17;
- 17 (p) inpatient psychiatric services for persons under 21 years of age, as provided in 42 U.S.C.
- 18 1396d(h), in a residential treatment facility, as defined in 50-5-101, that is licensed in accordance with 50-5-201;
- 19 (q) services of behavioral health peer support specialists ~~certified licensed or practicing as~~
- 20 licensure candidates under Title 37, chapter 38, for services provided to adults 18 years of age and older with a
- 21 diagnosis of a mental disorder, as defined in 53-21-102; and
- 22 (r) any additional medical service or aid allowable under or provided by the federal Social Security
- 23 Act.
- 24 (5) Services for persons qualifying for medicaid under the medically needy category of assistance,
- 25 as described in 53-6-131, may be more limited in amount, scope, and duration than services provided to others
- 26 qualifying for assistance under the Montana medicaid program. The department is not required to provide all of
- 27 the services listed in subsections (3) and (4) to persons qualifying for medicaid under the medically needy

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1 category of assistance.

2 (6) In accordance with federal law or waivers of federal law that are granted by the secretary of the
3 U.S. department of health and human services, the department may implement limited medicaid benefits, to be
4 known as basic medicaid, for adult recipients who are eligible because they are receiving cash assistance, as
5 defined in 53-4-201, as the specified caretaker relative of a dependent child and for all adult recipients of
6 medical assistance only who are covered under a group related to a program providing cash assistance, as
7 defined in 53-4-201. Basic medicaid benefits consist of all mandatory services listed in subsection (3) but may
8 include those optional services listed in subsections (4)(a) through (4)(r) that the department in its discretion
9 specifies by rule. The department, in exercising its discretion, may consider the amount of funds appropriated
10 by the legislature, whether approval has been received, as provided in 53-1-612, and whether the provision of a
11 particular service is commonly covered by private health insurance plans. However, a recipient who is
12 pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or
13 is less than 21 years of age is entitled to full medicaid coverage.

14 (7) The department may implement, as provided for in Title XIX of the Social Security Act, 42
15 U.S.C. 1396, et seq., as may be amended, a program under medicaid for payment of medicare premiums,
16 deductibles, and coinsurance for persons not otherwise eligible for medicaid.

17 (8) (a) The department may set rates for medical and other services provided to recipients of
18 medicaid and may enter into contracts for delivery of services to individual recipients or groups of recipients.

19 (b) The department shall strive to close gaps in services provided to individuals suffering from
20 mental illness and co-occurring disorders by doing the following:

21 (i) simplifying administrative rules, payment methods, and contracting processes for providing
22 services to individuals of different ages, diagnoses, and treatments. Any adjustments to payments must be
23 cost-neutral for the biennium beginning July 1, 2017.

24 (ii) publishing a report on an annual basis that describes the process that a mental health center or
25 chemical dependency facility, as those terms are defined in 50-5-101, must utilize in order to receive payment
26 from Montana medicaid for services provided to individuals of different ages, diagnoses, and treatments.

27 (9) The services provided under this part may be only those that are medically necessary and that

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1 are the most efficient and cost-effective.

2 (10) (a) The amount, scope, and duration of services provided under this part must be determined
3 by the department in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be
4 amended.

5 (b) The department shall, with reasonable promptness, provide access to all medically necessary
6 services prescribed under the early and periodic screening, diagnosis, and treatment benefit, including access
7 to prescription drugs and durable medical equipment for which the department has not negotiated a rebate.

8 (11) Services, procedures, and items of an experimental or cosmetic nature may not be provided.

9 (12) (a) Prior to enacting changes to provider rates, medicaid waivers, or the medicaid state plan,
10 the department of public health and human services shall report this information to the following committees:

11 (i) the children, families, health, and human services interim committee;

12 (ii) the legislative finance committee; and

13 (iii) the health and human services budget committee.

14 (b) In its report to the committees, the department shall provide an explanation for the proposed
15 changes and an estimated budget impact to the department over the next 4 fiscal years.

16 (13) If available funds are not sufficient to provide medical assistance for all eligible persons, the
17 department may set priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the medical
18 services made available under the Montana medicaid program after taking into consideration the funding
19 principles set forth in subsection (2). (Subsection (3)(o) terminates September 30, 2023--sec. 7, Ch. 412, L.
20 2019.)"

21

22 **NEW SECTION. Section 8. Transition.** The board shall license a person who was a certified
23 behavioral health peer specialist on [the effective date of this act] without requiring the person to meet the
24 requirements of [this act] if the person:

25 (1) was certified before October 1, 2022, or:

26 (2) was certified and had completed 1,000 hours of supervised work experience on or before [the
27 effective date of this act] and is in good standing with the board.

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NEW SECTION. **Section 9. Codification instruction.** [Section 1] is intended to be codified as an

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integral part of Title 37, chapter 38, and the provisions of Title 37, chapter 38, apply to [section 1].

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- END -

AMENDED