

BEHAVIORAL HEALTH BOARD LAWS AS OF THE 2019 LEGISLATIVE SESSION

TITLE 37, CHAPTER 38 BEHAVIORAL HEALTH PEER SUPPORT SPECIALISTS

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CHAPTER 38

BEHAVIORAL HEALTH PEER SUPPORT SPECIALISTS

Chapter Compiler's Comments

Effective Date: This chapter is effective October 1, 2017.

Part 1

General Provisions

37-38-101. Behavioral health peer support specialist. The profession of behavioral health peer support specialist is subject to certification requirements set forth in this chapter and by rules promulgated by the board of behavioral health.

History: En. Sec. 1, Ch. 127, L. 2017.

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

- (1) "Behavioral health" includes a person with a diagnosis of:
 - (a) a mental disorder, as that term is defined in 53-21-102; or
 - (b) chemical dependency, as that term is defined in 53-24-103.

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

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

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

- (a) has experienced and is in recovery from a behavioral health disorder;
- (b) has obtained the education and skills needed to provide therapeutic support to individuals with behavioral health disorders; and

- (c) possesses a valid and current certification.

- (5) "Mental health professional" means:

- (a) a physician licensed under Title 37, chapter 3;
- (b) a psychologist licensed under Title 37, chapter 17;
- (c) a social worker licensed under Title 37, chapter 22;

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

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

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

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

History: En. Sec. 2, Ch. 127, L. 2017.

37-38-103 through 37-38-105 reserved.

37-38-106. Privileged communications — exceptions. (1) Certified behavioral health peer support specialists work in health care teams. Communication among team members that is essential for the supported individual's recovery must be defined and established by board rule.

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

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

- (b) when a communication that otherwise would be confidential reveals that the individual or another person is contemplating the commission of a crime or in the behavioral health peer support specialist's professional opinion reveals a threat of imminent harm to the individual or others;
- (c) that if the individual is a minor and information acquired by the certified behavioral health peer support specialist indicates that the minor was the victim of a crime, the peer support specialist may be required to testify fully in relation to the information in any investigation, trial, or other legal proceeding in which the commission of that crime is the subject of inquiry;
- (d) that if the individual or the individual's personal representative or guardian brings an action against a certified behavioral health peer support specialist for a claim arising out of the peer support specialist's professional relationship with the individual, the individual is considered to have waived any privilege;
- (e) to the extent that the privilege is otherwise waived by the individual; and
- (f) as may otherwise be required by law.

History: En. Sec. 5, Ch. 127, L. 2017.

Part 2

Certification

37-38-201. Certification required — exceptions. (1) Upon certification in accordance with this chapter, a person may use the title "certified behavioral health peer support specialist" or "behavioral health peer support specialist".

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

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

History: En. Sec. 3, Ch. 127, L. 2017.

37-38-202. Certificate requirements — supervision — fees. (1) A person may apply for certification as a behavioral health peer support specialist if the person has attested to the fact that the person:

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

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

(3) An applicant must have:

- (a) successfully completed a training course in behavioral health peer support, as defined by the board by rule, which must include a module in ethics; and
- (b) verified the applicant's ability to perform all essential functions of the certified peer support role through the application and certification process provided for by the board.

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

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

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

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

History: En. Sec. 4, Ch. 127, L. 2017.