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Office of the Secretary of State**

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**Sarah Copeland Hanzas, Secretary of State
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March 22, 2024

**To: Sen. Virginia Lyons, Chair
Senate Committee on Health and Welfare**

From: Lauren Layman, General Counsel, Office of Professional Regulation

Re: H.847 – An act relating to peer support provider and peer recovery support specialist certification

Dear Committee,

Thank you for the opportunity to testify regarding H.847.

Pathway to the Recommend Certification

The Office of Professional Regulation (OPR) has been involved in legislative conversations about peer support and recovery support for several years. In the last two years, there has been a study group, conducted by the Department of Mental Health in partnership with the Peer Workforce Development Initiative in consultation with Wilda White, that has focused on the best way to establish a certification program for peer support providers in the state. OPR has been an active stakeholder in that study group. OPR agrees with the study group's recommendation that professional certification is the correct level of licensure and recommends passage of this bill even though the traditional path of a Sunrise Review under 26 V.S.A. Chapter 57 has not been completed. OPR understands from the Department of Health that a similar certification process would be beneficial for credentialing peer recovery support specialists and supports this effort, as well.

Structure and Benefits of the Certification

Certification is a form of professional regulation that permits anyone to practice an activity but only allows those with certain qualifications to hold themselves out to the public as "certified" in that activity. Under H. 847, anyone will be able to offer peer support and recovery support, but only people who hold a certificate from OPR will be able to say they are certified peer support providers or certified peer recovery support specialists.

To obtain the certification, peer support providers and peer recovery support specialists will be required to complete training and obtain a credential from a credentialing body that is engaged by the Department of Mental Health (for peer support providers) or the Department of Health (for peer recovery support specialists). An individual can then apply for certification as a peer support provider or a peer recovery support specialist by submitting that credential to OPR, confirming that they are 18-years-old or older, and passing a criminal history or registry check as described in rule.

OPR will not be involved in determining whether someone has lived experience or whether a training program is sufficient. These determinations will be made at the training program or Department level. Rules, to be adopted by OPR in consultation with the Department of Mental Health and the Department of Health, will specify the training process and the roles of the Departments and training entities.

This is being established as an advisor profession. OPR will rely on appointed advisors to establish the program, assist with drafting and implementing the rules, and, as necessary, review applications and help with enforcement efforts.

Under a certification program, clients and facilities will be able to rely on a peer support provider's or peer recovery support specialist's certification as an indication of base-level competency. Certification also provides the public with a layer of protection because there will be a complaint, investigation, and adjudicatory process when a peer support provider or peer recovery support specialist engages in unprofessional conduct. Additionally, certification will allow the state to pursue reimbursement for peer support provider and peer recovery support specialist services through Medicaid and, potentially, commercial insurance.

Background Checks

Section 2 of the bill authorizes OPR to conduct background checks but including this provision does not require OPR to conduct the background checks. H. 847 would require an applicant for a peer support provider or peer recovery support specialist certification to pass "criminal history and registry checks as described in rule." The bill leaves it up to the rulemaking process and, in turn, the public and stakeholders to determine what level of criminal background check is necessary for applicants. Should stakeholders and the public decide that applicants must complete an FBI criminal background check to obtain a peer support provider or recovery coach specialist certification, Section 2 ensures Vermont will have laws in place authorizing OPR to conduct the check. (The FBI requires states to have legislation authorizing an agency to conduct FBI criminal background checks before it permits the agency to obtain criminal background check results.) If, through the rulemaking process, stakeholders and the public determine that FBI criminal background checks are not required for certification, OPR will not conduct such checks.

Whether OPR receives FBI criminal background checks or simply asks applicants if they have a criminal history, the agency takes a robust and thoughtful approach to reviewing the criminal backgrounds of all applicants. Rather than immediately deny applicants who have criminal convictions, OPR considers, among other things, how closely the crimes the applicant has been convicted of the profession, how

long ago the conviction occurred, and whether there is a continued risk to the public. Currently, all applicants for professional licenses, registrations, and certifications are asked to provide court documents from their conviction and a personal statement explaining this situation, thus allowing OPR to consider mitigating circumstances and personal change. If OPR does ultimately determine that the criminal conviction or history should prevent the applicant from obtaining a license, a “preliminary decision to deny” the license is sent to the applicant, and they have full due process rights to challenge that determination.

Costs of Implementation and Ongoing Support for the Program

The Office of Professional Regulation is funded by licensure fees which are put into a special fund. This bill establishes an initial certification fee of \$50 and a renewal fee of \$50 upon passage and increases the initial certification fee to \$75 in 2027. We do not know the number of people who will seek this certification, so it is difficult to assess if these are adequate fees to support the program.

We are anticipating that establishing this program will be approximately \$25,000. We are asking for a general fund allocation to cover the set-up costs for this program. These cost will be incurred before applicants pay certification fees. Examples of our set-up costs include:

- OPR will conduct extensive outreach during the rulemaking process;
- Rulemaking will take multiple months and significant staff time;
- Rulemaking has a cost of approximately \$2,600; and,
- OPR will need to establish this program in our IT system.