



State of Vermont
Office of the Secretary of State

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TO: Representative William Lippert, Chair, House Committee on Health and Welfare
Representative Anne Donahue, Vice Chair, House Committee on Health and Welfare

FROM: Lauren Hibbert, Director
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DATE: March 30, 2022

SUBJECT: Recommendations Regarding S.195 Peer Support Specialists

OPR has several concerns about S. 195, as currently written, particularly regarding the lack of state oversight of a profession that engages regularly with a uniquely vulnerable population and the potential practice of psychotherapy by individuals without the currently required professional credential.

In the current version of S. 195, OPR's sole role would be to act as a consultant to a private peer-run or peer-led entity that would be charged with developing a statewide certification program for peer support specialists. OPR is able assume this role and provide support to these entities. This approach to regulating the credentialing of a mental health profession would be an unusual approach for Vermont, however. While other states certify peer support specialists through varying governmental and private entities (e.g., departments of health or mental health, professional licensing agencies, and/or private, third-party organizations), OPR has historically been charged with the professional credentialing of mental health professionals in Vermont.

OPR has several concerns about deviating from this normal course of credentialing mental health professionals.

- First, vulnerable individuals may rely on the private peer support credential as an indication that the state is overseeing and regulating the practice of these professionals. In its regulation of mental health professionals, OPR is guided by the policies established in 26 V.S.A. Chapter 57, which permit the regulation of a profession only to protect the public and allow only that level of regulation necessary to protect the public interest. In turn, credentials issued by OPR are indications to the public that a professional has the necessary experience to practice a profession safely, and the public can turn to OPR to see if a professional has been disciplined for unprofessional conduct. Individuals seeking services from peer support specialists may believe that the certified peer support specialist is subject to the same regulation and oversight as other mental health professionals, when this is not the case.
- Further, OPR is concerned that the provisions in S. 195 do not prohibit the practice of psychotherapy by peer support specialists. OPR recommends that independently practicing peer support counselors (e.g., those who are not practicing as an employee of or under contract with the Agency of Human Services) that are billing Medicaid for their services be required to be on the Roster. Even if peer support specialists do not claim to be providing psychotherapy, the

services provided by peer support counselors described in S. 195 appear to have a significant overlap with the services included in the definition of “psychotherapy” in our current statutes. Current laws require all individuals in Vermont providing psychotherapy to be on the Roster (at a minimum) unless the individual is providing psychotherapy under certain circumstances as an employee of or under contract with AHS. This has been determined to be necessary to protect the public from harm (e.g., by providing information about qualifications and discipline to clients, and by protecting vulnerable patients receiving substandard or violative care from untrained persons or disciplined providers). If peer support counselors are to be providing psychotherapy services, or something akin thereto, outside of an AHS facility for consideration, comparable to other mental health professionals in the state, OPR believes that requiring these providers to be on the Roster is similarly necessary to protect the public from harm. Alternatively, including in S. 195 a prohibition on peer support specialists providing psychotherapy would clarify the role of peer support specialists both for clients and professionals.

Should the General Assembly ask OPR to oversee the peer support specialist certification as it does for other mental health professional credentials, OPR is confident that it can do so. OPR has mastered the licensing and professional regulation functions of government. We license 50 different professions, including 12 different mental health professions. We have assumed licensing functions for other agencies, while those agencies retained the policy function of governance and regulation. We have the technology, processes, staff, and infrastructure to run the application, rulemaking, and enforcement components of licensing regulation. It would make a lot of sense for OPR to take on this role for peer support specialists, as well.

To effectively implement this credential, however, OPR will need more clarity than S.195 provides regarding the structure of the profession (e.g., the scope of practice, qualifications, supervision), the form of credential regulation (i.e., licensure, certification, or regulation) contemplated, and the qualifications for obtaining the credential. In turn, OPR asks that we be given the opportunity to conduct a Chapter 57 review of the proposed peer support specialist profession to determine an appropriate form of regulation for this profession that is consistent with state policy and public needs.

OPR’s initial impressions and reactions to the bill

1. OPR does not currently approve any peer support specialists.

Peer support specialists are not currently “listed” or “approved” through our office. In fact, peer counselors are expressly exempted from having to obtain a license to practice the mental health professions currently regulated by our Office for services provided in the course of their customary duties as peer counselors.

OPR does license, register, and certify other mental health professions that provide similar services to those provided by peer support specialists (e.g., training, education, counseling, therapy). These professions include:

Profession Type
Apprentice Addiction Professional
Certified Alcohol & Drug Abuse Counselor
Licensed Alcohol & Drug Abuse Counselor
Licensed Clinical Mental Health Counselor
Licensed Marriage and Family Therapist

Non-Licensed & Non-Certified Psychotherapist
Advanced Practice Registered Nurse**
Naturopathic Physician*
Osteopathic Physician*
Psychoanalyst
Psychologist – Doctorate
Psychologist – Master
Licensed Independent Clinical Social Worker
Licensed Master's Social Worker

*Provides mental health care in the context of primary care

** Provides mental health care in the context of primary care, and OPR licenses APRNs who specialize in mental health treatment (165 current licensees).

The current qualifications for mental health programs at OPR do not include certifications as a pathway to licensure. We do not know if any current certifications can be used toward college or graduate credit.

2. OPR does not have any oversight or approval of certifications offered by AHS departments.

If the credential is offered or approved by DMH/DOH, that agency would also handle oversight of the credential and professionals. Those agencies may be able to offer more specifics about their processes for approving and overseeing the credentials. OPR could be a partner with AHS on providing the structural support for certifications while the AHS departments drive the policy decisions.

3. OPR does not know how many certification programs there are in the state. OPR does recommend an inventory of state-approved certifications.

OPR does not currently regulate any peer support programs or offer certifications for them and, thus, does not have a registry or inventory of persons providing this service in the state. If these individuals are going to be practicing independently, OPR believes there should be a registry of those providing this service or at least that they are providing psychotherapy. DMH or DOH may offer certification programs for peer support programs and have an existing registry or inventory of certifications available.

4. OPR and its related mental health licenses do have active relationships with AHS and DMH.

Across OPR’s mental health programs some exemptions exist in licensing laws for people employed by or working within or on behalf of designated agencies and the Agency of Human Services. For example:

- Services provided by persons employed by or under contract with the Agency of Human Services are not considered psychotherapy, as that term is defined in the Licensed Clinical Mental Health Counseling and Roster statutes, in the following circumstances. A person employed by or under contract with AHS is not required to obtain a license or register on the roster:
 - If the person employed has less than a master’s degree
 - If the person is providing life skills training or instruction, such as learning to make friends, to handle social situations, to do laundry, and to develop community awareness; or
 - To interactions of employees or contracted individuals with clients whose job description or contract specifications do not specifically mention "psychotherapy" as a job responsibility or duty

- Further, all persons employed by or under contract with the Agency of Human Services are exempt from the application of mental health profession statutes as long as those persons are not providing “psychotherapy.”
- Under the Social Work rules, disclosure requirements are modified or removed for those working within a designated agency or institutions subject to other governmental requirements for disclosure.

There are other ways AHS has been involved in OPR regulation of mental health professions, as well, such as requirements that at least one member of the psychology board must represent the practice of the profession in the AHS or community mental health setting.

Conclusion

OPR encourages the General Assembly to authorize OPR to engage in this review process for peer support specialists. It will allow us to determine the “right-size” form of regulation for this profession and to develop the necessary structure for this certification program. As part of this Chapter 57 review, OPR will coordinate with the Peer Workforce Development Initiative (PWDI), the peer-run organizations, and the Department of Mental Health in their grant-based efforts to develop a statewide peer support specialist certification program. We are also eager to review the programs implemented by 48 other states to ensure Vermont implements a program that uses best practices and works for our people. With all the partners at the table and the opportunity to review the extensive work being done in this area, OPR is hopeful that we can develop a peer support specialist certification program that meets the needs of Vermonters, fulfills legal requirements for reimbursement, and protects the public’s interests.

Thank you,



S. Lauren Hibbert