

1 SENATE BILL 558

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Gerald Ortiz y Pino

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10 AN ACT

11 RELATING TO BEHAVIORAL HEALTH; ENACTING THE PEER SUPPORT  
12 WORKERS ACT IN CHAPTER 61 NMSA 1978; ESTABLISHING CERTIFICATION  
13 STANDARDS FOR BEHAVIORAL HEALTH PEER SUPPORT WORKERS; PROVIDING  
14 FOR TWO TIERS OF PEER SUPPORT WORKERS CLASSIFICATION; PROVIDING  
15 FOR TRAINING AND CLASSIFICATION OF PEER SUPPORT WORKERS.

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17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. A new section of Chapter 61 NMSA 1978 is  
19 enacted to read:

20 "[NEW MATERIAL] SHORT TITLE.--This act may be cited as the  
21 "Peer Support Workers Act"."

22 SECTION 2. A new section of Chapter 61 NMSA 1978 is  
23 enacted to read:

24 "[NEW MATERIAL] DEFINITIONS.--As used in the Peer Support  
25 Workers Act:

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1           A. "agency" means a person licensed to provide  
2 behavioral health services in the state, including:

3                   (1) a certified peer support worker who is  
4 classified as a level two certified peer support worker  
5 pursuant to Section 5 of the Peer Support Workers Act;

6                   (2) a psychologist licensed pursuant to the  
7 Professional Psychologist Act;

8                   (3) a psychiatrist licensed pursuant to the  
9 Medical Practice Act;

10                   (4) a person licensed pursuant to the  
11 Counseling and Therapy Practice Act as:

12                           (a) a professional clinical mental  
13 health counselor;

14                           (b) a licensed marriage and family  
15 therapist;

16                           (c) a licensed associate marriage and  
17 family therapist;

18                           (d) a licensed substance abuse  
19 counselor; or

20                           (e) a licensed alcohol and drug abuse  
21 counselor;

22                   (5) an independent social worker licensed  
23 pursuant to the Social Work Practice Act;

24                   (6) a master social worker licensed pursuant  
25 to the Social Work Practice Act; or

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1 (7) a health facility licensed by the  
2 department of health pursuant to the Public Health Act where a  
3 person described in Paragraphs (1) through (6) of this  
4 subsection provides services;

5 B. "board" means the peer support workers board of  
6 directors;

7 C. "certified peer support worker" means a peer  
8 support worker who has been certified pursuant to the Peer  
9 Support Workers Act;

10 D. "domestic abuse" means an incident by a  
11 household member against another household member consisting of  
12 using or threatening physical harm or inciting imminent fear of  
13 physical, emotional or psychological harm to the household  
14 member; provided that "domestic abuse" does not include the use  
15 of force in self-defense or in the defense of another; and

16 E. "secretary" means the secretary of human  
17 services."

18 SECTION 3. A new section of Chapter 61 NMSA 1978 is  
19 enacted to read:

20 "[NEW MATERIAL] PEER SUPPORT WORKERS BOARD OF DIRECTORS--  
21 MEMBERSHIP--APPOINTMENT--DUTIES.--

22 A. The "peer support workers board of directors" is  
23 created and consists of seven members. The secretary shall  
24 appoint initial board members for terms that are staggered from  
25 two to four years. Appointments shall be made as follows from

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1 a list of nominees supplied by licensed mental health  
2 professionals and organizations, including the national  
3 alliance on mental illness, the depression and bipolar support  
4 alliance and the four corners regional organization of mental  
5 health America:

6 (1) two members shall be peer support workers  
7 for mental health services;

8 (2) one member shall be a peer support worker  
9 for substance abuse treatment services;

10 (3) two members shall be licensed behavioral  
11 health service providers or representatives of a managed care  
12 organization that provides behavioral health services;

13 (4) one member shall be a member of the  
14 public; and

15 (5) one member shall be a representative of  
16 the United States department of veterans affairs.

17 B. After initial board member terms have expired,  
18 the secretary shall appoint members to the board for a period  
19 of three years. The secretary shall make appointments from a  
20 list of nominees supplied by licensed mental health  
21 professionals and organizations, including the national  
22 alliance of mental illness, the depression and bipolar support  
23 alliance and the four corners regional organization of mental  
24 health America, as follows:

25 (1) two members shall be certified peer

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1 support workers for mental health services;

2 (2) one member shall be a certified peer  
3 support worker for substance abuse treatment services;

4 (3) two members shall be licensed behavioral  
5 health service providers or representatives of a managed care  
6 organization that provides behavioral health services;

7 (4) one member shall be a member of the  
8 public; and

9 (5) one member shall be a member of the United  
10 States department of veterans affairs.

11 C. A board member shall not serve for a period that  
12 exceeds eight years.

13 D. A board member may receive per diem and mileage  
14 as provided for nonsalaried public officers in the Per Diem and  
15 Mileage Act and shall receive no other compensation, perquisite  
16 or allowance in connection with the discharge of the duties as  
17 a board member.

18 E. The board shall meet at least twice a year and  
19 at such other times as it deems necessary. A member failing to  
20 attend three consecutive regular and properly noticed board  
21 meetings without a reasonable excuse shall be automatically  
22 removed from the board.

23 F. Within ninety days of receiving notice of a  
24 vacancy on the board, the secretary shall appoint a qualified  
25 person to fill the remainder of the unexpired term.

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- G. A majority of the board members currently serving constitutes a quorum of the board.
- H. The board shall annually elect officers as it deems necessary to administer its duties.
- I. The board shall:
  - (1) establish by rule the required certification examinations and the procedures for taking and retaking them. These rules shall provide for the administration of certification examinations at least twice yearly;
  - (2) determine the passing grade on examinations;
  - (3) specify by rule the general areas of competency to be covered by certification examinations and ensure that the examinations adequately measure both an applicant's competency and knowledge of related statutory requirements;
  - (4) establish a code of conduct for certified peer support workers;
  - (5) take action to discipline any applicant or certified peer support worker who violates the provisions of the Peer Support Workers Act or board rules. These actions may include censure, reprimand, revocation of certification or placement of a certified peer support worker on probation;
  - (6) require and establish criteria, including

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1 approved training organizations and curriculum, for education  
2 in peer support work. These rules shall provide for a  
3 requirement that workers attend at least twelve hours of  
4 approved continuing education units each year;

5 (7) establish by rule procedures for  
6 receiving, investigating and resolving complaints;

7 (8) approve appropriate supervision or  
8 mentorship for individuals seeking certification as a peer  
9 support worker;

10 (9) determine eligibility for and issue  
11 certifications;

12 (10) require the renewal of certification  
13 every two years;

14 (11) establish by rule the criteria and  
15 procedures for granting certification as a peer support worker  
16 pursuant to Section 6 of the Peer Support Workers Act to an  
17 individual who has worked as a certified peer specialist or  
18 peer support worker in another state; and

19 (12) establish by rule the criteria and  
20 procedures for granting grandfathered eligibility for  
21 certification of internship or certification as a peer support  
22 worker pursuant to Section 6 of the Peer Support Workers Act.

23 J. The board may:

24 (1) adopt and file, in accordance with the  
25 State Rules Act, rules necessary to carry out the provisions of

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1 the Peer Support Workers Act, in accordance with the provisions  
2 of the Uniform Licensing Act;

3 (2) provide for the evaluation of the  
4 qualifications of applicants for certification pursuant to the  
5 Peer Support Workers Act;

6 (3) provide for the issuance of certification  
7 to applicants who meet the requirements of the Peer Support  
8 Workers Act;

9 (4) establish minimum training and educational  
10 standards for certification as a peer support worker;

11 (5) pursuant to the Uniform Licensing Act,  
12 conduct hearings on charges against applicants and certificate  
13 holders and take actions described in Section 61-1-3 NMSA 1978;

14 (6) bring an action for injunctive relief in  
15 district court seeking to enjoin a person from violating the  
16 provisions of the Peer Support Workers Act;

17 (7) issue cease and desist orders to persons  
18 violating the provisions of the Peer Support Workers Act or any  
19 rule adopted by the board pursuant to that act;

20 (8) adopt an annual budget;

21 (9) adopt a code of professional conduct;

22 (10) provide for the investigation of  
23 complaints against certificate holders; and

24 (11) create at least annually combined or  
25 separate lists of certified peer support workers, including

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1 each peer support worker's classification as a tier one or a  
2 tier two peer support worker as provided in Section 5 of the  
3 Peer Support Workers Act."

4 SECTION 4. A new section of Chapter 61 NMSA 1978 is  
5 enacted to read:

6 "[NEW MATERIAL] TRAINING PROGRAM.--

7 A. The board shall create or approve a training  
8 program that prepares individuals who self-identify as having a  
9 diagnosis of serious mental illness, a substance abuse disorder  
10 or a dual diagnosis of serious mental illness and substance  
11 abuse disorder to provide peer support. The training program  
12 shall include, at minimum:

- 13 (1) the recovery model and whole health and  
14 wellness;
- 15 (2) a history of the recovery movement;
- 16 (3) methods for establishing relationships  
17 with peers and maintenance of confidentiality;
- 18 (4) the role of a peer support worker;
- 19 (5) boundaries and ethics;
- 20 (6) an overview and definitions of mental  
21 disorders and substance use disorders;
- 22 (7) treatment options and alternatives,  
23 including medications;
- 24 (8) training for leading support groups;
- 25 (9) training in trauma and crisis;

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- 1 (10) notekeeping for medical records;  
2 (11) education in state mental health laws,  
3 including psychiatric advance directives;  
4 (12) training in proper conduct, teamwork and  
5 mentorship skills; and  
6 (13) training to provide a basic familiarity  
7 with public programs, including medicare, medicaid, federal  
8 social security income programs, veterans' services and Native  
9 American health programs.

10 B. The human services department shall fund  
11 certified peer support worker education and mentorship in  
12 accordance with the provisions of the Peer Support Workers Act  
13 and department rules. The vocational rehabilitation division  
14 of the public education department shall create an  
15 informational audiovisual training program for use by the  
16 division, the human services department and the board. The  
17 audiovisual program shall explain the role of peer support  
18 workers, the demands of the position, pay ranges for the  
19 position and expectations of peer support workers."

20 SECTION 5. A new section of Chapter 61 NMSA 1978 is  
21 enacted to read:

22 "[NEW MATERIAL] PEER SUPPORT--PEER SUPPORT WORKERS--  
23 CLASSIFICATIONS.--

24 A. Peer support shall promote socialization,  
25 recovery, self-sufficiency, self-advocacy, development of

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1 natural supports and maintenance of skills learned in other  
2 support services and work in a behavioral health environment.

3 Peer support shall be provided as follows:

4 (1) a certified peer support worker with a  
5 serious mental illness or with a dual diagnosis of serious  
6 mental illness and substance abuse disorder may provide peer  
7 support to:

8 (a) an individual with a serious mental  
9 illness; or

10 (b) an individual with a dual diagnosis  
11 of serious mental illness and substance abuse disorder; and

12 (2) a certified peer support worker with a  
13 diagnosis of substance abuse disorder may provide peer support  
14 to another individual with a substance abuse disorder.

15 B. The board shall establish two levels of peer  
16 support workers for purposes of classifying certified peer  
17 support workers on the basis of the workers' training and  
18 experience.

19 C. A level two certified peer support worker is  
20 qualified to offer training to and to mentor peer support  
21 workers.

22 D. In addition to meeting the criteria for  
23 certification as a peer support worker pursuant to Section 6 of  
24 the Peer Support Workers Act, an applicant for certification as  
25 a peer support worker may be certified as a level one certified

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1 peer support worker after that individual has successfully  
2 passed a written certification examination and successfully  
3 completed eighty hours of didactic classroom education, as well  
4 as demonstrating one of the following:

5 (1) having completed five hundred hours' paid  
6 internship during which the applicant for certification  
7 received mentoring by a level two certified peer support  
8 worker; or

9 (2) having completed one thousand hours of  
10 employment as a peer support worker or as an advocate for  
11 individuals living with mental illness, evidence of which shall  
12 be a letter of recommendation and verification from a  
13 supervisor at the agency where the peer support worker was  
14 employed.

15 E. A level one certified peer support worker may be  
16 certified as a level two certified peer support worker after  
17 that individual has obtained certification and has demonstrated  
18 the following:

19 (1) successful completion of one hundred  
20 twenty hours of didactic classroom education;

21 (2) passage of a written certification  
22 examination; and

23 (3) completion of three thousand hours of  
24 employment as a certified peer support worker with, from each  
25 agency where the peer worker was employed during the three

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1 thousand hours of employment:

2 (a) a letter of recommendation from a  
3 supervisor and a coworker; and

4 (b) verification of employment from a  
5 supervisor.

6 F. The board shall not charge a fee that exceeds  
7 forty dollars (\$40.00) to take the certification examination  
8 offered pursuant to the Peer Support Workers Act."

9 SECTION 6. A new section of Chapter 61 NMSA 1978 is  
10 enacted to read:

11 "[NEW MATERIAL] CERTIFICATION--MINIMUM CRITERIA.--In  
12 addition to meeting the criteria for certification that the  
13 board establishes by rule pursuant to its duties set forth in  
14 Section 3 of the Peer Support Workers Act, an applicant for  
15 certification as a peer support worker shall:

16 A. be at least eighteen years of age;

17 B. self-identify as having:

18 (1) a serious mental illness;

19 (2) a substance abuse disorder; or

20 (3) a dual diagnosis of serious mental illness  
21 and substance abuse disorder;

22 C. meet the requirements of Subsection C of Section  
23 5 of the Peer Support Workers Act;

24 D. have had two years of recovery from the symptoms  
25 of a condition described in Subsection B of this section, as

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1 the board defines and determines "recovery";

2 E. provide evidence of having a high school diploma  
3 or graduate equivalency document;

4 F. have no history or conviction for:

5 (1) domestic violence;

6 (2) a sexual offense;

7 (3) driving under the influence of alcohol or  
8 another intoxicating substance within the last five years; or

9 (4) other serious crime against a person;

10 G. certify that the applicant has viewed the  
11 audiovisual peer support worker training program that the  
12 vocational rehabilitation division of the public education  
13 department has developed pursuant to Subsection B of Section 4  
14 of the Peer Support Workers Act;

15 H. during the three years prior to application for  
16 certification, have not had a driver's license suspended or  
17 revoked for a moving violation;

18 I. demonstrate verbal, reading and writing  
19 abilities appropriate for employment as a peer support worker  
20 by passing a board-approved test offered prior to the  
21 certification examination;

22 J. provide proof of having received instruction in  
23 the role of peer support worker, the demands of the position,  
24 pay ranges appropriate to the position and job expectations;

25 K. independence for at least two years from

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1 substances or gambling, if formerly addicted to substances or  
2 gambling;

3 L. not be on probation or parole; and

4 M. submit to screening for controlled substances in  
5 accordance with board rules."

6 SECTION 7. A new section of Chapter 61 NMSA 1978 is  
7 enacted to read:

8 "[NEW MATERIAL] RECIPROCITY--GRANDFATHERING.--

9 A. An individual is eligible to sit for the  
10 certification examination after completing a self-study course  
11 as board rules specify if that individual:

12 (1) provides a letter from another state's  
13 certifying board that the individual is a certified peer  
14 specialist or certified peer support worker in good standing,  
15 or has resigned in good standing, and has worked in another  
16 state for at least one thousand five hundred hours;

17 (2) provides to the board a notarized letter  
18 of recommendation and verification of employment from a  
19 supervisor of each agency where the individual has been  
20 employed as a certified peer specialist or peer support worker;  
21 and

22 (3) meets the criteria established pursuant to  
23 Section 6 of the Peer Support Workers Act and follows board  
24 procedures to sit for the certification examination.

25 B. An individual who has met the criteria for

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1 certification pursuant to Section 6 of the Peer Support Workers  
2 Act and who has passed the certification examination before the  
3 effective date of the Peer Support Workers Act is eligible to  
4 be granted certification as board rules provide."

5 SECTION 8. A new section of Chapter 61 NMSA 1978 is  
6 enacted to read:

7 "[NEW MATERIAL] ASSOCIATION WITH AGENCY.--A peer support  
8 program shall exist in association with an agency."