

Date of Hearing: August 4, 2020

ASSEMBLY COMMITTEE ON HEALTH

Jim Wood, Chair

SB 803 (Beall) – As Amended July 27, 2020

SENATE VOTE: 39-0

SUBJECT: Mental health services: peer support specialist certification.

SUMMARY Requires the Department of Health Care Services (DHCS) to seek any federal waivers or state plan amendments (SPAs) to include a certified peer support specialist as a Medi-Cal provider type, and to include peer support specialist services as a distinct service type in the Medi-Cal program, which may be provided to eligible Medi-Cal beneficiaries who receive specialty mental health services or Drug Medi-Cal (DMC) services in any county, including any county that has implemented a DMC organized delivery system (DMC-ODS), or both, if that county elects to both opt-in to provide peer support specialist services, and to fund the nonfederal share of those services. Requires DHCS to establish a certifying body and to establish curriculum and core competencies required for certification, including a process for an individual employed as a peer support specialist on January 1, 2021, to obtain certification under this bill. Establishes requirements for applicants for certification as a peer support specialist, and for continued certification. Specifically, **this bill:**

- 1) Requires DHCS to seek any federal waivers or other SPAs, as necessary, to do all of the following:
 - a) Include a peer support specialist certified pursuant to this bill as a provider type for purposes of the Medi-Cal program;
 - b) Include peer support specialist services as a distinct service type for purposes of the Medi-Cal program, which may be provided to eligible Medi-Cal beneficiaries who receive specialty mental health services or DMC services in any county, including any county that has implemented a DMC-ODS, or both, if that county elects to do both of the following:
 - i) Opt in to provide peer support specialist services; and,
 - ii) Fund the nonfederal share of those services.
 - c) Develop and implement one or more billing codes, reimbursement rates, and claiming requirements for peer support specialist services.
- 2) Defines, for purposes of this bill, the following:
 - a) “Peer support specialist” to mean a person who is 18 years of age or older and who is a person who has self-identified as having lived experience with the process of recovery from mental illness, substance use disorder (SUD), or both, either as a consumer of these services or as the parent or family member of the consumer; and,
 - b) “Peer support specialist services” to mean culturally competent services that promote engagement, socialization, recovery, self-sufficiency, self-advocacy, development of natural supports, identification of strengths, and maintenance of skills learned in other support services, which include, but are not limited to, support, coaching, facilitation, or education to Medi-Cal beneficiaries that is individualized to the beneficiary and is conducted by a certified peer support specialist.

- 3) Requires DHCS to develop one or more billing codes, reimbursement rates, and claiming requirements for peer support specialist services.
- 4) Requires DHCS, by July 1, 2021, to do all of the following:
 - a) Establish a certifying body, either through contract or through an interagency agreement, to provide for the certification activities described in this bill;
 - b) Provide for a statewide certification for peer support specialists, as contained in federal guidance in State Medicaid Director Letter No. 07-011, issued by the federal Centers for Medicare and Medicaid Services (CMS) on August 15, 2007;
 - c) Define the range of responsibilities, practice guidelines, and supervision standards for peer support specialists by utilizing best practice materials published by the federal Substance Abuse and Mental Health Services Administration (SAMHSA), the federal Department of Veterans Affairs, and related notable experts in the field as a basis for development; and,
 - d) Determine curriculum and core competencies required for certification of an individual as a peer support specialist, including curriculum that may be offered in areas of specialization, including, but not limited to, transition-age youth, veterans, gender identity, sexual orientation, and any other areas of specialization identified by the DHCS. Requires core-competencies-based curriculum to include, at a minimum, training related to all of the following elements:
 - i) The concepts of hope, recovery, and wellness;
 - ii) The role of advocacy;
 - iii) The role of consumers and family members;
 - iv) Psychiatric rehabilitation skills and service delivery, and addiction recovery principles, including defined practices;
 - v) Cultural competence training;
 - vi) Trauma-informed care;
 - vii) Group facilitation skills;
 - viii) Self-awareness and self-care;
 - ix) Co-occurring disorders of mental health and substance use;
 - x) Conflict resolution;
 - xi) Professional boundaries and ethics;
 - xii) Preparation for employment opportunities, including study and test-taking skills, application and résumé preparation, interviewing, and other potential requirements for employment;
 - xiii) Safety and crisis planning;
 - xiv) Navigation of, and referral to, other services;
 - xv) Documentation skills and standards; and,
 - xvi) Confidentiality.
 - e) Specify training requirements, including core-competencies-based training and specialized training necessary to become certified under this bill, allowing for multiple qualified training entities, and requiring training to include people with lived experience as consumers and family members;
 - f) Establish a code of ethics;
 - g) Determine continuing education requirements for biennial certification renewal;
 - h) Determine the process for biennial certification renewal;
 - i) Determine a process for investigation of complaints and corrective action, including suspension and revocation of certification;

- j) Determine a process for an individual employed as a peer support specialist on January 1, 2021, to obtain certification under this bill.
- 5) Requires an applicant for certification under this bill to meet all of the following requirements:
 - a) Be at least 18 years of age;
 - b) Possess a high school diploma or equivalent degree;
 - c) Be self-identified as having experience with the process of recovery from mental illness or SUD treatment either as a consumer of these services or as the parent or family member of the consumer;
 - d) Be willing to share their experience;
 - e) Demonstrate leadership and advocacy skills;
 - f) Have a strong dedication to recovery;
 - g) Agree, in writing, to adhere to a code of ethics;
 - h) Successfully complete the curriculum and training requirements for a peer support specialist; and,
 - i) Pass a certification examination approved by DHCS for a peer support specialist.
 - 6) Requires a peer support specialist, to maintain certification under this bill, to meet both of the following requirements:
 - a) Adhere to the code of ethics and biennially sign an affirmation; and,
 - b) Complete any required continuing education, training, and recertification requirements.
 - 7) Prohibits this bill from implying that an individual who is certified pursuant to this bill is qualified to, or authorized to, diagnose an illness, prescribe medication, or provide clinical services.
 - 8) Prohibits this bill from altering the scope of practice for a health care professional or authorize the delivery of health care services in a setting or manner that is not authorized pursuant to the Business and Professions Code or the Health and Safety Code.
 - 9) Requires DHCS to consult (at minimum, through quarterly stakeholder meetings) with the Office of Statewide Health Planning and Development, peer support and family organizations, mental health services and SUD treatment providers and organizations, the County Behavioral Health Directors Association of California (CBHDA), and the California Behavioral Health Planning Council in implementing this bill.
 - 10) Permits DHCS to additionally conduct technical workgroups upon the request of stakeholders.
 - 11) Permits community health workers, to facilitate early intervention for mental health services, to partner with peer support specialists to improve linkage to services for beneficiaries.
 - 12) Permits DHCS to establish a certification fee schedule and to require remittance as contained in the certification fee schedule for the purpose of supporting the activities associated with the ongoing administration of the peer support specialist certification program.
 - 13) Requires certification fees charged by DHCS reasonably reflect the expenditures directly applicable to the ongoing administration of the peer support specialist certification program.

- 14) Permits DHCS to seek any federal waivers or other state plan amendments as necessary to implement the certification program provided for under this bill.
- 15) Requires Medi-Cal reimbursement for peer support specialist services to be implemented only if, and to the extent that, federal financial participation (FFP) under federal Medicaid law is available and all necessary federal approvals have been obtained.
- 16) Permits DHCS, for the purpose of implementing this bill, to enter into exclusive or nonexclusive contracts on a bid or negotiated basis, including contracts for the purpose of obtaining subject matter expertise or other technical assistance.
- 17) Permits DHS to implement, interpret, or make specific the various requirements of this bill by means of informal notices, plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action, until the time regulations are adopted. Requires DHCS to adopt regulations by January 1, 2022, in accordance with the requirements of the Administrative Procedures Act.
- 18) Permits DHCS, to the extent authorized by a specified provision of the Mental Health Services Act (MHSA) and if authorized under the annual Budget Act, in fiscal year (FY) 2020-21, to fund state administrative costs related to developing and administering the peer support specialist certification program. Permits DHCS, subject to an express appropriation in the Budget Act of 2021 for FY 2021-22, and to the extent authorized by specified provision of the MHSA, to fund state administrative costs related to developing and administering the peer support specialist certification program. Requires, to the extent permissible, those funds to be available for purposes of claiming FFP under federal Medicaid law.
- 19) States that this bill does not constitute a change in the MHSA, but is a clarification of a funding purpose under existing law that is consistent with the intent of the MHSA.

EXISTING LAW:

- 1) Establishes the Medi-Cal program, administered by DHCS, under which qualified low-income individuals receive health care services.
- 2) Establishes a schedule of benefits under the Medi-Cal program, which includes mental health and SUD services.
- 3) Permits, pursuant to state specialty mental health regulation, Mental Health Services, Day Rehabilitation Services, Day Treatment Intensive Services, Crisis Intervention Services, Targeted Case Management, and Adult Residential Treatment Services to be provided by “any person determined by the county mental health plan (MHP)” to be qualified to provide the service, consistent with state law.
- 4) Requires DHCS to have the sole authority in state government to determine the qualifications, including the appropriate skills, education, training, and experience of personnel working within alcoholism or drug abuse recovery and treatment programs licensed, certified, or funded by DHCS.

- 5) Requires DHCS, except for licensed professionals, as defined by DHCS, to require that an individual providing counseling services working within alcohol or drug abuse recovery and treatment programs licensed, certified or funded by DHCS to be registered with or certified by a certifying organization approved by the DHCS to register and certify counselors.

FISCAL EFFECT: The current version of this bill, as amended on July 27, 2020, has not been analyzed by a fiscal committee.

COMMENTS:

- 1) **PURPOSE OF THIS BILL.** According to the author, the COVID-19 pandemic and subsequent economic downturn pose a serious threat to the mental health of Californians. Calls to the SAMHSA's disaster distress hotline increased nearly 10 fold from March 2019 to March 2020. The need for mental health response will continue to grow even as the state of emergency subsides. The sharp rise in mental health disorders triggered by COVID-19 is likely to linger long after the end of the pandemic itself, thus highlighting the need for an effective, comprehensive, and economically viable mental health care response. Peer support, recognized as an evidence-based model of care by CMS since 2007, is a cost-effective practice that is proven to reduce hospitalization and homelessness, increase participation in treatment, and service experience. Peer support specialists are self-identified consumers who use their lived experience along with skills learned in formal training to assist others in their own recovery from mental illness. Forty-eight states recognize their value and have a certification process in place or in development for mental health peer support specialists. Despite increase demand for peer services, there remains no statewide scope of practice, training standards, supervision standards, or certification in California. Statewide certification would ensure quality, standardization, and effectiveness of peer support services across California's 58 counties.
- 2) **BACKGROUND.** In 2007 and 2013, CMS provided guidance to states interested in peer support services under the Medicaid program. CMS wrote that states are increasingly interested in covering peer support providers as a distinct provider type for the delivery of counseling and other support services to Medicaid eligible adults with mental illnesses and/or SUDs. CMS stated peer support services are an evidence-based mental health model of care which consists of a qualified peer support provider who assist individuals with their recovery from mental illness and SUD. CMS continued that it recognized that the experiences of peer support providers, as consumers of mental health and SUD services, can be an important component in a state's delivery of effective treatment. CMS reaffirmed its commitment to state flexibility, increased innovation, consumer choice, self-direction, recovery, and consumer protection through approval of these services. CMS policy guidance includes requirements for supervision, care-coordination, and minimum training criteria for peer support providers.

CMS indicated that, in order to be considered for federal reimbursement, states must identify the Medicaid authority to be used for coverage and payment, describe the service, the provider of the service, and their qualifications in full detail. States must describe utilization review and reimbursement methodologies. CMS stated Medicaid will reimburse for peer support services delivered directly to Medicaid beneficiaries with mental health and/or SUDs. Additionally, reimbursement must be based on an identified unit of service and be provided by one peer support provider, based on an approved plan of care. States must

provide an assurance that there are mechanisms in place to prevent over-billing for services, such as prior authorization and other utilization management methods.

CMS established the minimum requirements that should be addressed for supervision, care coordination, and training when electing to provide peer support services, including:

- a) **Supervision:** Supervision must be provided by a competent mental health professional (as defined by the State). CMS stated that the amount, duration, and scope of supervision will vary depending on State Practice Acts, the demonstrated competency and experience of the peer support provider, as well as the service mix, and may range from direct oversight to periodic care consultation;
- b) **Care-coordination:** Peer support services must be coordinated within the context of a comprehensive, individualized plan of care that includes specific individualized goals; and,
- c) **Training and credentialing:** Peer support providers must complete training and certification as defined by the State. Training must provide peer support providers with a basic set of competencies necessary to perform the peer support function. The peer must demonstrate the ability to support the recovery of others from mental illness and/or SUDs. Similar to other provider types, ongoing continuing educational requirements for peer support providers must be in place.

- 3) **CURRENT USE OF PEERS FOR SUD AND MENTAL HEALTH SERVICES.** Peers are used in drug treatment and mental health services in some instances. For example, the DMC-ODS Waiver Special Terms and Conditions (STCs) allows coverage of peer-to-peer substance abuse assistance services as a component of recovery services. DHCS guidance states that, as a component of recovery services, SUD peer support services cannot be reimbursed for any other service modality in the DMC-ODS. Counties utilizing SUD peer support services must comply with all federal Medicaid regulations and policy guidance. Counties are responsible for the development of a SUD Peer Support Training Plan and are to provide a county SUD designation for SUD peer support staff consistent with the requirements outlined in the STCs of the Waiver and in state guidance. Under DHCS guidance for DMC-ODS, peer support can only be billed under the substance abuse assistance component.

For Medi-Cal specialty mental health services provided by county MHPs, California's Medicaid State Plan permits the provision of services by "Other Qualified Providers," defined as, "an individual at least 18 years of age with a high school diploma or equivalent degree determined to be qualified to provide the service by the county mental health department." Mental Health Services (excluding Therapy), Targeted Case Management, Day Rehabilitative Services, Day Treatment Intensive Services, Crisis Intervention, Crisis Stabilization, Adult Residential and Crisis Residential Treatment services may be provided by "any person" determined by the MHP to be qualified to provide the service, consistent with state law. State law requires these "Other Qualified Providers" to provide services "under the direction of" a licensed mental health professional within their respective scope of practice. The MHP may designate certain other qualified providers to contribute to the assessment, including gathering the beneficiary's mental health and medical history, substance exposure and use, and identifying strengths, risks, and barriers to achieving goals. However, outside of the DMC-ODS recovery services, peer support specialist services provided by peer support specialists are not Medi-Cal billable.

- 4) **RECENT AMENDMENTS.** To address state mandated costs under Proposition 30 of 2012 and state General Fund (GF) costs for the new proposed benefit, the July 27, 2020 amendments limit the provisions of this bill to county specialty MHPs and to DMC (drug treatment) services in both counties that have implemented a DMC-ODS (37 counties with over 93% of the state's population) and those that have not. For the peer support specialist services benefit to become in effect in a county under this bill, a county would have to opt into providing the benefit and provide the non-federal share (e.g., the funds used to drawn down federal Medicaid matching funds). Prior versions of this bill and bills introduced and vetoed in prior legislative sessions did not have this county opt in and requirement that counties provide the non-federal share. In addition, prior versions of this bill would have established the peer support specialist services as a benefit in Medi-Cal managed care plans (which have responsibility for what is known as the "mild to moderate" mental health benefit in Medi-Cal managed care plans). Because Proposition 30 requires the state to provide additional GF to cover increased costs for realigned programs, including specialty mental health and DMC services, adding a distinct Medi-Cal provider type and service therefore would have increased GF costs.
- 5) **SUPPORT.** This bill is jointly sponsored by the Los Angeles County Board of Supervisors, CHBDA, the California Association of Mental Health Peer Run Organizations, and the Steinberg Institute, which argue that peer providers who use their life experience with mental illness and recovery, coupled with skills learned through formal training, have proven to be a valuable addition to service delivery in mental health settings. The sponsors and supporters argue peer providers use their lived experience with mental illness, addiction, and recovery, coupled with skills learned through formal training to provide invaluable behavioral health services. The sponsors also point out that research demonstrates that peer support specialists reduce hospitalizations and hospital days, improve client functioning, increase client satisfaction, reduce family concerns, alleviate clinical symptoms, and increase client self-advocacy. Across California, peer providers are already utilized in many settings. However, there are no statewide standards of practice, consistent curriculum, training or supervision standards, or certification protocol. They claim that, without the standardization of this profession, California is unable to secure federal approval or Medicaid federal financial support for peer support services. Creating and fortifying California's peer support specialist workforce through ensuring federal Medicaid assistance is more critical than ever because of the current public health emergency, which is increasing anxiety and trauma experienced by Californians statewide. The number of unexpected deaths, the fear of getting ill, social isolation and economic uncertainty are creating and exacerbating a behavioral health crisis. They conclude that counties need a workforce with experience in successfully navigating their own behavioral health crises to help and support them. Supporters conclude that the ability of peers to connect with those in need and exemplifying the path to recovery and wellness will be vital in the aftermath of the pandemic.
- 6) **OPPOSITION.** The California Right to Life Committee (CRLC) writes in opposition that it continue to oppose bills that appeal to the emotion of the citizen but expand the work and reach of the state government. CRLC considers this bill to be one such bill, stating that it is an Orwellian model of the use of science, technology, and human compassion as a means to control all activities of the human person. CRLC argues this bill utilizes the serious COVID-19 condition to further the necessity for mental health counseling without any specific reference to age of the potential needy person. CRLC states this bill is another attempt to

broaden the workforce with non-professional persons who would become government employees.

7) PREVIOUS LEGISLATION.

- a) SB 614 (Leno) of 2015 would have required DHCS to establish a program for certifying peer and family support specialists and to collaborate with interested stakeholders and allows DHCS to seek any federal waivers or SPA to implement the certification program. SB 614 was amended into another unrelated subject.
- b) SB 906 (Beall) of 2018 was substantially similar to SB 614. SB 906 was vetoed by Governor Brown. In his veto message, Governor Brown wrote that peer support specialists are currently used as providers in Medi-Cal without a state certificate, and that SB 906 imposed a costly new program which will permit some of these individuals to continue providing services but shut others out. Governor Brown urged the stakeholders and DHCS to improve upon the existing framework while allowing all peer support specialists to continue to work.
- c) SB 10 (Beall) of 2019 was substantially similar to SB 906. SB 10 was vetoed by Governor Newsome. In his veto message, Governor Newsom wrote

“Peer support services can play an important role in meeting individuals' behavioral health care needs by pairing those individuals with trained "peers" who offer assistance with navigating local community behavioral health systems and provide needed support. Currently, counties may opt to use peer support services for the delivery of Medicaid specialty mental health services. As the Administration, in partnership with the Legislature and counties, works to transform the state's behavioral health care delivery system, we have an opportunity to more comprehensively include peer support services in these transformation plans. I look forward to working with you on these transformations efforts in the budget process and future legislation, as improving the state of the state's behavioral health system is a critical priority for me.

This proposal comes with significant costs that should be considered in the budget process.

- d) AB 704 (Patterson) of 2018-19 would have required a person, hired by an alcoholism or drug abuse recovery or treatment facility on or after January 1, 2020, who has frequent contact with clients of that alcoholism or drug abuse recovery or treatment facility to be subject to a criminal record review prior to that person's involvement in the provision of services. A person hired by an alcoholism or drug abuse recovery or treatment facility before January 1, 2020, who has frequent contact with clients of that alcoholism or drug abuse recovery or treatment facility must complete a criminal record review on or before December 31, 2021. AB 704 was held on the Assembly Appropriations Committee suspense file.

Support

California Association of Mental Health Peer Run Organizations (cosponsor)
 County Behavioral Health Directors Association of California (cosponsor)
 Los Angeles County Board of Supervisors (cosponsor)
 Steinberg Institute (cosponsor)

2020 Mom

Alameda County District Attorney's Office

Association of California Health Care Districts

Bay Area Community Services

Cal Voices

California Access Coalition

California Alliance of Child and Family Services

California Association of Alcohol and Drug Program Executives, Inc.

California Association of Public Hospitals and Health Systems

California Association of Social Rehabilitation Agencies

California Behavioral Health Planning Council

California Chapter of the American College of Emergency Physicians

California Council of Community Behavioral Health Agencies

California Pan-Ethnic Health Network

California Psychiatric Association

California Psychological Association

California Schools Nurses Organization

California State Association of Counties

CaliforniaHealth+ Advocates

Children Now

Children's Defense Fund – California

Community Research Foundation

County of Ventura

County of Santa Clara

Depression and Bipolar Support Alliance California

Disability Rights California

Juvenile Court Judges of California

Kelechi Ubozoh Consulting

Local Health Plans of California

National Alliance on Mental Illness, California

National Alliance on Mental Illness, Fresno

National Alliance on Mental Illness, Solano

National Association of Social Workers, California Chapter

Occupational Therapy Association of California

Orange County Board of Supervisors

Peers Envisioning and Engaging in Recovery Services

Racial and Ethnic Disparities Mental Health Coalition

Santa Clara Valley Health Plan

Seneca Family of Agencies

The Arc and United Cerebral Palsy California Collaboration

The Children's Partnership

Transitions-Mental Health Association

Ventura County Board of Supervisors

Western Center on Law & Poverty

Opposition

California Right to Life Committee

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