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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/26/13

SPONSOR Ortiz y Pino LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Peer Support Worker Act SB 558

ANALYST Geisler

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Likely exceeds \$200.0, see narrative			Recurring	General fund, federal funds

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Human Services Department (HSD)

Division of Vocational Rehabilitation (DVR)

### SUMMARY

#### Synopsis of Bill

Senate Bill 558 would add a new section to Chapter 61 NMSA 1978 entitled the Peer Support Worker Act, establishing a board to administer the Act, establishing certification standards and a training program. Peer support workers with mental illness, substance abuse disorder, or dual diagnosis can provide support to other individuals dealing with serious mental illness or substance abuse disorders.

### FISCAL IMPLICATIONS

No funding is included to implement the provisions of SB558. HSD notes that two additional staff would be needed to support implementation of this bill and the bill also requires HSD to fund peer support worker education and mentorship. Although an exact cost estimate was not provided by the department, it is likely that costs for this program would exceed \$200 thousand per year.

HSD is not required to fund the other responsibilities of the board, including: developing and administering certification exams, training, complaint investigation and disciplinary actions,

including hearings and appeals. These activities would require additional funding which is not provided for by the bill. In addition, additional administrative support would be required to administer the appointment process in the Office of the Secretary. HSD estimates that 2 additional staff is 63 thousand per FTE would be required to support this program.

The Division of Vocational Rehabilitation notes that Section 4.B. of the bill indicates that “the vocational rehabilitation division of the public education department shall create an informational audiovisual training program for use by the division, the Human services Department and the board. The audiovisual program shall explain the roles of peer support workers, the demands of the position, pay ranges for position and expectations of peer support workers.” While supportive of the intention of this bill, DVR cannot carry out what is described in Section 4.B. The Division specifically provides vocational services aimed at assisting persons with all types of disabling conditions (including mental illness) to achieve and maintain suitable employment. The Division of Vocational Rehabilitation does not have the staff expertise or resources to develop a training program consistent with the content described in this bill. Again, the Division performs a role that is focused on employment outcomes. It would seem more practical that the HSD Behavioral Health Services Division would develop a training program to support Peer Support Workers. This is consistent with their function and expertise.

## **SIGNIFICANT ISSUES**

Peer Support is a structured relationship where a trained worker or volunteer, who has gone through a process of recovery, assists other people with mental health issues to identify and achieve life goals as part of their own recovery process. Peer Supporters provide mentorship, emotional support, problem solving, goal setting, crisis risk assessment, and referrals to other community supports. Peer Supporters promote empowerment and self determination through non-judgmental listening and person-centered goal setting.

HSD notes that SB558 would substantially increase the training and experience requirements for peer support workers to be certified. This could provide a disincentive to the development of this important emerging profession. Statewide, there are currently 154 certified peer support workers in New Mexico; 46 are working in a Core Service Agencies (CSAs); 60 are working elsewhere; and 58 are not working.

In addition, the regulatory structure proposed for the certification of peer support workers is very different than the structure used to regulate other health professionals that work in behavioral health services. Physicians, psychologists, nurses, counselors, therapists and social workers are regulated by independent board appointed by the Governor and most are administered through the Department of Licensing and Regulation. Having peer support workers certified by a board appointed by the HSD Secretary and administered through the HSD could lead to these professionals having standards and regulatory requirements that are not aligned with the other professionals working in community behavioral health services.

Also as noted by HSD, SB558 would establish the new board that, in an additional way, is inconsistent with the administrative structure of other New Mexico state professional licensing boards. The new Peer Support Workers Board of Directors’ members would be appointed by the Secretary of HSD and receive training funds through HSD, but the bill does not provide the board the authority to hire staff. It is unclear whether HSD would be required to provide office space and staff support for the board’s activities. SB558 would provide the board with

independent rulemaking authority, the authority to adopt a budget and the authority to seek injunctive relief in district court for violations without the approval or consultation of HSD. Other administratively-attached professional licensing boards are generally appointed by the Governor and have the authority to adopt a budget, hire staff and take independent disciplinary actions – while the base agency provides office space and administrative support.

Other behavioral health professional licensing statutes clearly specify the licensee’s scope of practice and whether the licensed professional is authorized to practice and bill for services, independently. This new certification statute is silent on these provisions. Without clear statutory guidance, this program will be difficult to implement.

Under the current proposed language, the certified peer support worker would be required to complete 12 hours of continuing education each year, however, the statute requires certification renewal every two years. Failure to meet the annual continuing education requirement would necessitate a disciplinary action, instead of handling it as a condition of renewal. Aligning the continuing education requirement with the certification renewal cycle would improve the board’s ability to efficiently and effectively administer the continuing education requirement. Currently, BHSD requires forty hours of continuing education before renewing peer support worker certification, which is required every two years.

SB558 would require the vocational rehabilitation division of the Public Education Department to create an audiovisual program, for use by HSD and the board that explains the role of peer support workers, demands of the position, pay ranges and expectations. The PED is not required to consult with the board, NM Behavioral Health Purchasing Collaborative, or HSD in developing the audiovisual program. As the audiovisual program is a central component of the peer support worker education program. Not requiring collaboration with the board, HSD and the Collaborative, could result in a product that is not aligned with the board and Collaborative vision.

## **PERFORMANCE IMPLICATIONS**

The current program for certification of peer support workers was established as a result of Medicaid program requirements. To enable peer support workers to perform Medicaid reimbursable services in Core Service Agencies (CSAs), the Collaborative worked with the New Mexico Credentialing Board for Behavioral Health Professionals (NMCBBHP) to establish training and a certification process. This certification is finalized by the NMCBBHP. This board has been overseeing the certification of peer support workers by administering and scoring the certification exam. Most other aspects of the CPSW program are performed by the Office of Consumer Affairs, housed in the Behavioral Health Services Division of HSD, with the advice of the Certified Peer Support Worker Task Force.

The current certification requirements to become a CPSW include:

- a. Be 18 years of age;
- b. Have a valid New Mexico mailing address;
- c. Have a high school diploma or GED;
- d. Be self-identified as a current or former consumer of mental health and/or substance abuse services;
- e. Have a least two years of demonstrated mental health or substance abuse recovery and provide written certification from both the prospective trainee and the individual’s

- therapist;
- f. Have no convictions for domestic violence, sexual offenses or other serious crimes against person;
  - g. Complete 40 classroom hours of approved training; and
  - h. Pass the written certification exam.

### **ADMINISTRATIVE IMPLICATIONS**

SB558 would require the Secretary of HSD to appoint the members of the new board from a list of nominees supplied by licensed mental health professionals and organizations, including the National alliance on Mental Illness, Depression and Bipolar Support Alliance and the four corners regional organization of Mental Health America. Vacancies must be filled within 90 days. The statutory requirements the appointees must be nominated by national associations will complicate the Secretary's work and potentially delay appointments. No guidance is provided as to how the list of nominees would be developed by this mix of individuals, regional chapters, and national organizations. In addition, the bill does not require that the appointed board members be residents of New Mexico. The statutory requirement to solicit nominees from national organizations could lead to confusion as to the requirement that board members be residents of New Mexico without specific statutory guidance.

### **TECHNICAL ISSUES**

The definition of "agency" on page 2 of the bill appears to be mislabeled. It should be clear is the intent of the bill is to have the board under the authority of the Regulation and Licensing Department or the Human Services Department.

The intent of Section 8 of the bill is unclear. The section would add new language specifying that "A peer support program shall exist in association with an agency." The term peer support program is not used elsewhere in the bill.

GG/blm