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## Emergency Regulation and Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Department of Behavioral Health and Developmental Services (DBHDS)
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	12VAC35-105 and 12VAC35-250
<b>VAC Chapter title(s)</b>	Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services (12VAC35-105) and Peer Recovery Specialists (12VAC35-250)
<b>Action title</b>	Mandatory Peer Recovery Specialist-Trainee (PRS-T) designation
<b>Date this document prepared</b>	June 23, 2025

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

Individuals working toward certification as a Peer Recovery Specialist (PRS) have expressed difficulty in gaining their certification hours while not bringing in revenue due to the financial constraints of providers. Therefore, the Department of Behavioral Health and Developmental Services (DBHDS) – working together with sister agencies, the Department of Health Professions (DHP) and the Department of Medical Assistance Services (DMAS) – will create a Peer Recovery Specialist Trainee (PRS-T) designation to allow these individuals to bill for their services while working toward the 500 hours of experience necessary for PRS certification.

## Acronyms and Definitions

*Define all acronyms used in this form, and any technical terms that are not also defined in the “Definitions” section of the regulation.*

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Board – State Board of Behavioral Health and Developmental Services  
 DBHDS – Department of Behavioral Health and Developmental Services  
 PRS – Peer Recovery Specialist  
 PRS-T – Peer Recovery Specialist-Trainee

## Mandate and Impetus (Necessity for Emergency)

*Explain why this rulemaking is an emergency situation in accordance with § 2.2-4011 A and B of the Code of Virginia. In doing so, either:*

- a) *Indicate whether the Governor’s Office has already approved the use of emergency regulatory authority for this regulatory change.*
- b) *Provide specific citations to Virginia statutory law, the appropriation act, federal law, or federal regulation that require that a regulation be effective in 280 days or less from its enactment.*

*As required by § 2.2-4011, also describe the nature of the emergency and of the necessity for this regulatory change. In addition, delineate any potential issues that may need to be addressed as part of this regulatory change.*

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The 2025 General Assembly amended the appropriation act ([Item 293 C](#)) to direct the State Board of Behavioral Health and Developmental Services to promulgate emergency regulations to “amend its regulations as necessary for persons in the process of completing necessary hours of supervision for certification through [DBHDS] to be eligible for registration through the Department of Health Professions as a peer recovery specialist-trainee for approval as a Medicaid provider type for the provision of mental health and substance use peer supported services.”

The authorizing budget language requires the board’s emergency regulations to become effective within 280 days of the budget’s final adoption on May 2, 2025. (A regulatory action to establish permanent regulations will follow this emergency action.)

## Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts and Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.*

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During the 2025 Session of the General Assembly, the State Board of Behavioral Health and Developmental Services was directed through budget language to promulgate emergency regulations recognizing peer recovery specialist-trainees. [Item 293 C of the 2025 Appropriations Act \(Chapter 725\)](#) mandates the changes within this regulatory action.

Section 37.2-203 of the Code of Virginia gives the board the authority to adopt regulations that may be necessary to carry out the provisions of Title 37.2 of the Code and other laws of the Commonwealth

administered by the DBHDS commissioner generally, as well as the duty to establish qualifications, education, and experience for peer recovery specialists registered by the Board of Counseling at DHP. The board voted to adopt this regulatory action at its meeting on September 24, 2025.

### Purpose

*Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.*

Individuals working toward certification as a PRS have expressed difficulty in gaining their certification hours while not bringing in revenue due to the financial constraints of providers. This action amends the PRS regulations to create and recognize a “trainee” designation (PRS-T) to allow individuals to bill for their services while they are working on the 500 hours of experience necessary for PRS certification. This will allow individuals working toward certification greater opportunities to gain the necessary hours and increase the workforce availability of peer-supported behavioral health services.

### Substance

*Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of Changes” section below.*

This action (1) adds PRS-T requirements to the Licensing Regulations (12VAC35-105) related to provider staffing requirements for supervision and (2) amends the Peer Recovery Specialist regulations (12VAC35-250) to add a PRS-T definition and minimum standards for PRS-Ts for certifying bodies.

### Issues

*Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.*

The primary advantage of the regulatory action is to allow individuals working toward PRS certification more economic opportunities while earning requisite experience, which will increase the number of PRSs in the Commonwealth. This is an advantage to the public, providers, the agency, and the Commonwealth.

There are no known disadvantages to the public or the Commonwealth.

### Alternatives to Regulation

*Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.*

Because this regulatory action is mandated by the General Assembly, there are no viable alternatives.

**Periodic Review and Small Business Impact Review Announcement**

This NOIRA is not being used to announce a periodic review or a small business impact review.

**Public Participation**

*Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.*

The Department of Behavioral Health and Developmental Service is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail or email to Susan Puglisi, 1220 Bank Street, Richmond, VA 23219, [susan.puglisi@dbhds.virginia.gov](mailto:susan.puglisi@dbhds.virginia.gov). In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.

**Detail of Changes**

*List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.*

*If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the emergency regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.*

**Table 1: Changes to Existing VAC Chapter(s)**

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
12VAC35-105-590. Provider		The requirements of a provider staffing plan, including types, roles and	Change: The addition of peer recovery specialist-trainee requirements within

<p>staffing plan.</p>		<p>numbers of employees and contractors. The section also includes requirements for a transition staffing plan for new services, and requirements related to supervision.</p>	<p>the subsection related to staffing requirements for supervision.</p> <p>Intent: PRS-Ts shall not be included within provider staffing plans.</p> <p>Impact: Will allow PRS-Ts working toward their 500 hours and certified as required by the Virginia Certification Board to bill while appropriately supervised.</p>
<p>12VAC35-105-925. Standards for the evaluation of new licenses for providers of services to individuals with opioid addiction.</p>		<p>Provides the requirements for the evaluation of new licenses for providers of services to individuals with opioid addiction including staffing requirements.</p>	<p>Change: Clarifies that a PRS-T shall not be counted in the staffing plan for providing peer recovery specialist services.</p> <p>Intent: Ensures that PRS-Ts obtain appropriate supervision prior to and while providing services.</p> <p>Impact: Will allow PRS-Ts working toward their 500 hours and certified as required by the Virginia Certification Board to bill while appropriately supervised.</p>
<p>12VAC35-250-10. Definitions</p>		<p>Provides the definitions for the Peery Recovery Specialist chapter.</p>	<p>Change: Adds a definition for peer-recovery specialist-trainee</p> <p>Intent: Defines PRS-Ts</p> <p>Impact: Will allow PRS-Ts working toward their 500 hours and certified as required by the Virginia Certification Board to bill while appropriately supervised.</p>
<p>12VAC35-250-40. Minimum standards for certifying bodies.</p>		<p>Provides minimum standards for certifying bodies for peer recovery specialists.</p>	<p>Change: Adds the minimum standards for PRS-Ts from certifying bodies.</p> <p>Intent: Places requirements of PRS-Ts for certifying bodies.</p> <p>Impact: Will allow PRS-Ts working toward their 500 hours and certified as required by the Virginia Certification Board to bill while appropriately supervised.</p>