

February 2, 2021
Delegate Susan McComas
323 House Office Building
6 Bladen Street
Annapolis, MD 21401

Re: HB-0689 Proposed Legislation: Certificate for Involuntary Admission – Licensed Certified Social Worker-Clinical (LCSW-C)

POSITION: SUPPORT

Dear Delegate McComas, and Members of the General Assembly:

This letter is to request legislative enactment to include the LCSW-C to be authorized to sign the Certificate for Involuntary Admission (HG-10-616) within the scope of clinical practice. This proposed legislation is endorsed by the Maryland Chapter of the National Association of Social Workers, The Greater Washington Society for Clinical Social Work and the Maryland Board of Social Work Examiners.

In summary: This legislation is needed to protect vulnerable individuals who need to be admitted into inpatient care, subject to provisions of law which include subsequent evaluation(s) by appropriate hospital staff. The evaluation and Certificate for Involuntary Admission must be completed within 12 hours of an individual's presenting at the hospital (usually the emergency room). Especially in urban and rural areas this is not always possible and therefore, a person needing inpatient care is sent back onto the street, or may be incarcerated (if the EP was signed by a police officer). The LCSW-C is authorized to issue the Emergency Petition but not authorized to sign the Certificate for Involuntary Admission, along with a physician. (This is subject to judicial review in all cases).

In further support of this legislation: The Licensed Certified Social Worker-Clinical practice includes, but is not limited to, authorization through various Federal and Maryland State statutes, and Attorney General Opinions and Advice of Counsel to provide clinical health care services to the residents of Maryland.

The Health Occupations Article Title 19-101: Scope of Practice includes the following:

For an individual licensed as a certified social worker–clinical, “practice social work” also includes: (i) Supervision of other social workers; (ii) Evaluation, diagnosis, and treatment of biopsychosocial conditions, mental and emotional conditions and impairments, and behavioral health disorders, including substance use disorders, addictive disorders, and mental disorders, as defined in § 10–101(i) of the Health – General Article; (iii) Petitioning for an Emergency Evaluation under Title 10, Subtitle 6 of the Health – General Article; and (iv) The provision of psychotherapy. (5) “Practice social work” includes using technology as set forth in regulations.

In addition to the above, the following medical services are authorized:

1. The LCSW-C is authorized to issue a Petition for Emergency Evaluation (HG-10-620).
2. The LCSW-C is authorized to determine and grant sick leave. The State Personnel and Pensions Article Sec. 9-504 (iv) a licensed certified social worker - clinical;
3. The LCSW-C is authorized to determine impairment under both Federal and State statutes for determination(s) of disability.
4. The LCSW-C is authorized to initiate under the WCC provisions Temporary Total Impairment (Disability), and recognized as a medical provider for purposes of rendering care. The State Personnel and Pensions Article Sec. 9-504 (iv) a licensed certified social worker – clinical, is authorized to grant

sick leave, as part of the treatment process to determine impairment (temporary total).

5. On January 30, 2004, The Office of the Attorney General issued an Advice of Counsel which affirmed the LCSW-C may be permitted to testify on ultimate issues including competency to stand trial and criminal responsibility.

6. The LCSW-C is authorized to determine Guardianship Md. Rule 10-202(a).

7. The Maryland Department of Human Resources, Family Investment Administration (DHS/Department of Social Services, Medical Report Form 500 (revised 08/2018) recognizes the LCSW-C's scope of practice as the authority to determine impairment. (Signature of a health care provider with independent diagnostic authority, who is authorized to evaluate, determine impairment, and independently treat medical, mental and/or emotional disorders and conditions, and who is providing services according to the requirements of the appropriate professional board.)

8. The Maryland Transit Administration, Mobility Certification Office, in accordance with the American Disabilities Act, recognizes the LCSW-C (psychiatric social worker is the term used) to determine mental, or emotional disorders and conditions and impairments and determine the extent, severity, and duration of the impairment resulting in functional incapacity and need.

Discussion:

These authorities and possibly other Federal and State statutes and regulations not only include the evaluation, diagnosis, and treatment of mental and emotional disorders, but also permit the diagnosis and determinations of conditions and impairments by the LCSW-C as noted above. Therefore, the LCSW-C should be allowed to make a determination of impairment and sign the Certificate for Involuntary Admission with a physician subject to judicial process, within the parameters of the Social Work Practice Act (HO-Title 19).

It is understood that this may affect only a minority of LCSW-C's, who work in hospitals and other settings, but like Guardianship and Emergency Petition, and other authority, it is important those who are qualified be allowed to use their knowledge to help the public. The LCSW-C is, in many instances, the primary direct treatment provider. And, it is not uncommon for a person who is in danger of self harm or harming another, or otherwise incompetent to have been treated by an LCSW-C. Nor is it unusual for an LCSW-C to be the most familiar person who has direct contact with a patient in the Emergency Room or other setting. Especially, in rural and urban areas there simply are not readily available, affordable, trained psychologists, psychiatric nurse practitioners, and psychiatrists to evaluate, diagnose, treat and make determinations for involuntary admission for patients with mental and emotional disorders, conditions and resultant impairment.

Therefore, since the evaluation, diagnosis, and treatment of impairments and conditions are included in the LCSW-C scope of practice, and affirmed by the Attorney General, it is requested LCSW-C's, be allowed to sign the Certificate of Involuntary Admission per HG-10-616 requirements.

Presently, LCSW-C's are providing the treatment, sometimes over an extended period of time, but have to refer the patient/client to a psychologist or psychiatrist, who reviews the LCSW-C's notes and signs the Certificate. This is a burden on the patient, and facility due to time limits on the Emergency Petition. In addition, in some areas it is difficult to find an experienced psychiatrist or psychologist, or psychiatric nurse practitioner.

Recommendations:

Based upon the above, it is respectfully requested this proposed legislation be passed into law to better serve the public.

Sincerely,

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