

February 12, 2023

Maryland General Assembly
Delegates C.T. Wilson Chair, and Brian M. Crosby, Vice Chair
Delegates Boaf, Grossman, and McCaskill, Sponsors
Economic Matters Committee
Room 231
House Office Building
Annapolis, Maryland 21401

**RE: HB-694 LABOR AND EMPLOYMENT-WORKERS' COMPENSATION-
LICENSED CERTIFIED SOCIAL WORKER-CLINICAL (LCSW-C)**

POSITION: SUPPORT

Dear Delegate Wilson and Members of the Committee:

Disclaimer: The opinions and suggested amendments concerning HB-694 are my own and do not in any way, shape, form, or matter represent those of any other person, individual (LLC, S-Corp., etc.), Governmental agency, for, or not for Profit Corporation, or organization.

I have reviewed the requirements for Workers Compensation Rehabilitation practitioners, and Case Managers. I am familiar with the processes of the WCC as a Medical Provider Title 14, Independent Agencies, Subtitle 09, Workers Compensation Commission, Chapter 08 Guide to Medical and Surgical Fees; and as registered with the WCC number (G0235).

Workers Compensation Case Manager:

Only nurses are recognized in the **Labor and Employment Article Sec.9 Workers' Compensation, Subtitle Sec.9-6A-09** as Medical Case Managers. However, the LCSW-C is recognized as a medical provider in Title 14 Independent Agencies, Subtitle 09 Workers Compensation Commission, Ch. 08, auth. L&E Sec. 9-309, 9-663, and 9-731; 01 Definitions B. Terms Defined, 2(m) authorized provider means "A Licensed Clinical Social Worker) (now means LCSW-C).

It is respectfully requested the Licensed Certified Social Worker- Clinical be added, specifically as are nurses, as Case Managers. Case Management is specifically authorized and is well within Scope of Practice of the Licensed Certified Social Worker-Clinical who is authorized to independently evaluate, diagnose, treat mental and emotional disorders, conditions and impairments.(HO 19-101 Et. Seq.). Preventing the LCSW-C from engaging, arbitrarily, in the full Scope of Practice authorized by the Health Occupations Article Title 19 appears to be a restraint of trade which limits employment opportunities in vocational rehabilitation and the comprehensive evaluative assessment of the injured worker.

The essential duties of an LCSW-C, in various health care settings, are comparable to those of a nurse case manager, which includes, but not limited to, home visits, arranging for and taking patients to health care appointments, maintaining and organizing medical records, including interactions with insurance companies, and suggesting and making referrals for care. Nurse case managers do not provide physical

(somatic) care, or mental health treatment as a Case Manager of the injured worker; The Case Manager refers the patient/client to other providers for ongoing care (conflict of interest to be both the case manager and treatment provider) who may include the physicians, LCSW-C, nurses, pt's, and Ot's, etc.

It is very important the LCSW-C, for the benefit of the injured worker, and timely jurisprudence by the Workers Compensation Commission, this amendment be enacted. In urban and rural settings we need qualified health care providers to fill these positions. We need LCSW-C's who are qualified, registered with the WCC, and who can relate to the injured worker to help facilitate care.

The LCSW-C as a recognized healthcare (medical provider as noted) provider must be able to engage in the full Scope of Practice when treating the injured worker. I am able as an LCSW-C to certify sick leave, affirm Temporary Total Disability for benefits, but cannot testify as to the degree of Permanent Impairment for the injured worker. This must be amended as it deprives the injured worker of allowing his or her treatment provider from rendering an opinion affecting the patient's functional capacity and present evidence to support the conclusion as does a psychologist. Presently, a psychologist or physician may interview the injured worker for about 20 minutes then review and present the LCSW-C's recommendation and records to justify the recommendations as to the degree of permanent impairment (as defined in statute) which affects the benefits the claimant (injured worker) may receive.

Testimony Documentation to support my opinion(s) on Permanent Impairment:

It is recommended and I support strongly that Sec. 9-721 (c) be amended as follows:

Section 9-721(c) If a permanent impairment involves a behavior or mental disorder a licensed psychologist **LICENSED CERTIFIED SOCIAL WORKER-CLINICAL (LCSW-C)**, or qualified physician shall: **In support of this amendment I submit the following documentation:**

1. The LCSW-C in statute, HO-19-101 (5) states as follows: **For an individual licensed as a certified social worker–clinical, “practice social work” also includes: 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 § 7.5–101 of the Health – General Article.**
2. On January 30, 2004, at the request of Del. Sandy Rosenberg, an **Attorney General Advice of Counsel** was issued by Kathryn M. Rowe, AAG **“In conclusion it is my view a licensed clinical social worker may be permitted to testify with respect to ultimate issues such as sanity and competence to stand trial”.** (See attachment).
3. The Court of Appeals of Maryland held that once qualified as an expert witness in social work, a licensed clinical social worker may opine regarding the subject of risk and safety assessment. *In re: Tatianna B.*, 417 Md. 259, 9 A.3d 502 (2010).
4. House Bill-1615 (2018), **Pg. 5, line 17; pg.6 line 3 deleted physician and inserted “by a licensed health care provider” with independent diagnostic authority, to render an opinion on the ultimate issue of permanent impairment (DHR form 500)).**

5. The LCSW-C, trained, may conduct various assessments including psychological testing; reference: BCBS Federal Employee Benefits Program (2005), or like a physician refer the injured worker for testing and then include those results within the treatment plan and testimony.

6. There are several other statutes involving impairment which include the LCSW-C as authorized to evaluate impairment, including but not limited to, Certification of Guardianship, Involuntary Commitment, granting sick leave, etc.

I have been qualified as an Expert Witness in the Maryland District and Circuit Courts and the Federal District Court for the 4th Circuit on matters concerning mental disorders, substance use disorders, and impairments and conditions. But, because only a psychologist or qualified physician is listed, (but not the LCSW-C,) in the Labor and Employment Article Sec.9-721(c), I am not able to be to testify as to permanent impairment, even though I was the treating provider. I have been involved as a treating provider in several serious WCC cases, and was referred at least one case by the Commission to resolve a rating discrepancy by reevaluating the injured worker, but then not able to formally render my opinion. I am also permitted to authorize Temporary Total Disability (TT). I am willing to discuss cases with members of the Committee or staff privately, as there were sensitive issues involved concerning public safety, and revocation of a psychiatrist's medical license in one case.

Treatment and evaluation of the injured worker is part of forensic social work, as it is for psychologists and physicians. Interestingly, the statute states a "qualified physician" but not for psychologists (just licensed psychologist). Few psychiatrists or psychologists have knowledge of the WCC policy and procedures, treat the injured worker, or are registered with the Commission. Therefore there is a shortage of qualified mental practitioners' to provide treatment to the injured worker. Like the practice of law, not every lawyer is involved in workers compensation of other disability determination cases.

Further, like the LCSW-C, psychologists do not have prescriptive privileges, nor are psychologists required to study pharmacology as a component of their degree. Like the LCSW-C they may study these areas of practice voluntarily or learn on the job. Also, the LCSW-C may, voluntarily take courses to allow them to conduct psychological testing (Ag opinion Commercial Free Speech), reimbursement recognized by Blue Cross Blue Shield (Federal Policies).

Whether a physician, psychologist, or Licensed Certified Social Worker-Clinical, this amendment will only apply to those who are experienced in this practice area by training, ongoing CEU's, and work experience as required by the Commission.

For the benefit of the public, especially involving working class injured individuals, who cannot afford treatment or second opinions or evaluations from psychiatrists and psychologists (who either usually charge directly or place a medical provider's lien on an award) they want a therapist they can relate too, and afford. The LCSW-C, who is trained and experienced, meets those needs. The HO 19-10, Et.Seq. restricts the practice of the LCSW-C to the special qualifications and knowledge of the practitioner.

Sincerely,



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Attachments: AG Advice of Counsel 1/30/2004;
In re: Tatianna B., 417 Md. 259, 9 A.3d 502 (2010);
HB-1615 (2018);
NIH Pub. Med Article;
Flax WCC Practitioner G0235;
MTA- Mobility

Health Occupations Article Title 19

(6) Clinical Social Work.

(a) "Clinical social work" means the professional application of social work knowledge, skills, values, theories, and methods for the treatment and prevention of psychosocial dysfunction, disability, or impairment, including emotional disorders, mental disorders, and substance use disorders with individuals, groups, and families.

D. Licensed Certified Social Worker-Clinical (LCSW-C). An LCSW-C may:

- (1) Practice social work as stated in Health Occupations Article, §19-101(m), Annotated Code of Maryland;
- (2) Provide supervision of other social workers as set forth in COMAR 10.42.05;
- (3) Evaluate, diagnose and treat biopsychosocial conditions, mental and emotional conditions and impairments, and mental disorders as defined in Health-General Article, §10-101(f), Annotated Code of Maryland;
- (4) Petition for emergency evaluation under Health-General Article, Title 10, Subtitle 6, Annotated Code of Maryland;
- (5) Provide person-to person psychotherapy;
- (6) Have a private practice; and
- (7) Practice clinical social work as stated in Health Occupations Article §19-401(b), Annotated Code of Maryland.