

AG Advice of Counsel 4-23-2005 WCC 9-721.pdf

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Position: FAV

J. JOSEPH CURRAN, JR.
ATTORNEY GENERAL

DONNA HILL STATON
Deputy Attorney General



ROBERT A. ZARNOCH
Assistant Attorney General
Counsel to the General Assembly

BONNIE A. KIRKLAND
KATHRYN M. ROWE
SANDRA J. COHEN
Assistant Attorneys General

THE ATTORNEY GENERAL OF MARYLAND
OFFICE OF COUNSEL TO THE GENERAL ASSEMBLY

April 22, 2005

The Honorable Samuel I. Rosenberg
Room 225, 600 Wyndhurst Avenue
Baltimore, Maryland 21210

Dear Delegate Rosenberg:

You have asked for advice concerning the legality of a Licensed Certified Social Worker - Clinical ("LCSW-C") testifying as an expert witness on the issue of permanent impairment of injured workers in a Workers' Compensation proceeding. It is my view that the Workers' Compensation Commission ("the Commission") may permit LCSW-C's to testify on the issue of permanent impairment of injured workers. However, current law requires that an evaluation of permanent impairment be made by a physician.

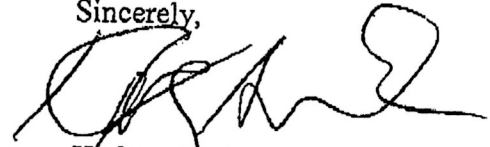
The Workers' Compensation law provides for compensation to be paid to a covered employee who is permanently partially disabled due to an accidental personal injury or occupational disease, Labor and Employment Article, § 9-625, or who is permanently totally disabled due to an accidental personal injury or an occupational disease, LE § 9-635. Hearings are held by the Commission if the employer or its insurer contests a claim and one or both parties request a hearing. LE §§ 9-713(a) and 9-714(a)(2). The Commission is not bound by any common law or statutory rule of evidence or any formal or technical rule of procedure, LE § 9-715(b), but has the authority to establish its own rules with respect to the nature and extent of evidence and proof and for the method of taking and providing evidence and proof to establish a right to compensation, LE § 9-701(4). Given this leeway, it is my view that the Commission could permit an LCSW-C to testify as an expert on the issue of permanent impairment consistent with the statutory practice limitations set forth in § 19-101(m) of the Health Occupations Article. In essence, the Commission could consider expert opinions from an LCSW-C if the issue under consideration related to the "practice of social work" as that term is defined in the statute. Of course, the Commission could also refuse to do so, either on a case-by-case basis or in all cases.

Labor and Employment Article § 9-721(a) provides that a "physician shall evaluate a permanent impairment and report the evaluation to the Commission in accordance with the regulations of the Commission." The evaluation is to include information about atrophy, pain, weakness, and loss of endurance, function, and range of motion. LE § 9-721(b). Commission regulations on these evaluations are found at COMAR 14.09.04.01 *et seq.* The language of the statute plainly states that an evaluation of permanent impairment is to be prepared by a physician,

The Honorable Samuel I. Rosenberg
April 22, 2005
Page 2

that is, an individual licensed to practice medicine under Health Occupations Article Title 14, Subtitle 3. The term would not include an LCSW-C. Therefore, it is my view that an LCSW-C may not perform evaluations and reports on permanent impairment under § 9-721(a).¹

Sincerely,



Kathryn M. Rowe
Assistant Attorney General

KMR/kmr
rosenberg99.wpd

¹ House Bill 384 and Senate Bill 264 of 2005, if signed into law, will permit a licensed psychologist to perform evaluation of permanent impairment involving behavioral or mental disorders. House Bill 1289 and Senate Bill 856, which would have made a similar change for LCSW-Cs with respect to mental, emotional and behavioral disorders, did not pass the General Assembly.

BSWE testimony HB-694.pdf

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Position: FAV



Board of Social Work Examiners

Wes Moore, Governor · Arana Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

*Sandra G. Petty, Chair · Daphne McClellan, Executive Director
4201 Patterson Avenue, Suite 318 Baltimore MD 21215 Phone: 410-764-4788*

February 28, 2023

The Honorable C.T. Wilson
Chair, House Economic Matters Committee
Room 101 House Office Building
Annapolis, MD 21401-1991

RE: House Bill 694 – Labor and Employment – Workers’ Compensation – Licensed Certified Social Worker–Clinical – Letter of Support

Dear Chair Wilson and Committee Members:

The Maryland Board of Social Work Examiners (the Board) is submitting this letter of support for HB 694 - Labor and Employment – Workers’ Compensation – Licensed Certified Social Worker – Clinical. This bill will authorize a Licensed Certified Social Worker-Clinical (LCSW-C) to register as a rehabilitation practitioner, to provide evaluation services for workers’ compensation claims related to permanent impairments involving a behavioral or mental disorder. LCSW-Cs would join the currently recognized nurse case managers, rehabilitation counselors and vocational evaluators in providing this service to the public.

LCSW-Cs are licensed as such because their education, experience and knowledge tested on a national exam demonstrate that they are capable of making these professional judgments. In addition, any social worker who is neither trained nor experienced in this area is ethically bound to refrain from practicing or testifying in this area.

The scope for an LCSW-C outlined in Health Occupation Article § 19-101 (n) states “(5) 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 § 7.5–101 of the Health – General Article; (iii) Petitioning for emergency evaluation under Title 10, Subtitle 6 of the Health General Article; and (iv) The provision of psychotherapy.”

For these reasons, the Board supports HB 649 and are pleased to support those social workers who can fulfill this important role for the public.

I hope this information is useful. If you would like to discuss this issue further, please contact me at **Daphne.McClellan@maryland.gov or 410-764-4722.**

Sincerely,

Daphne L. McClellan

Daphne McClellan, PhD, MSW
Executive Director
Board of Social Work Examiners

The opinion of the Board expressed in this letter of support does not necessarily reflect that of the Department of Health or the Administration.

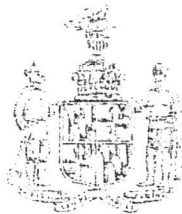
Exhibit 1-Atty Gen- ULTIMATE ISSUE 1-30-2004.pdf

Uploaded by: arthur flax

Position: FAV

J. JOSEPH CURRAN, JR.
ATTORNEY GENERAL

—
DONNA HILL STATON
Deputy Attorney General



C
ROBERT A. ZARNOCH
Assistant Attorney General
Counsel to the General Assembly

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RICHARD E. ISRAEL
KATHRYN M. ROWE
SANDRA J. COHEN
Assistant Attorneys General

THE ATTORNEY GENERAL OF MARYLAND
OFFICE OF COUNSEL TO THE GENERAL ASSEMBLY

January 30, 2004

The Honorable Samuel I. Rosenberg
415 Lowe House Office Building
Annapolis, Maryland 21401-1991

Dear Delegate Rosenberg:

You have asked for advice concerning the views of this office as to whether a licensed clinical social worker may testify on ultimate issues such as sanity, competence to stand trial, and matters within the scope of practice of a licensed clinical social worker.¹ It is my view that a licensed clinical social worker may provide diagnostic testimony with respect to mental disorders and psychosocial conditions. This would generally mean that they may testify on issues of sanity and competence to stand trial and in other situations where a person's mental condition is at issue.

As you are aware, I wrote a letter in 1994 that concluded that a licensed clinical social worker was not qualified to testify on ultimate issues of fact such as criminal responsibility and competence to stand trial. Letter to the Honorable Virginia M. Thomas from Kathryn M. Rowe dated June 6, 1994. Since that time, the Court of Appeals has addressed this issue and has taken a different position. As a result, it is now my view that a licensed clinical social worker may be permitted to testify on ultimate issues such as sanity and competence to stand trial.

In *In re Adoption/Guardianship No. CCJ14746*, in the Circuit Court for Washington County, 360 Md. 634 (2000), the Court of Appeals addressed the issue of whether the Circuit Court for Washington County had erred in permitting a licensed clinical social worker to testify with respect to a diagnosis of an abused child as suffering from ADHD and borderline intellectual functioning and to the view that the mother's ability to manage and parent the child was impaired because of her own chronic mental illness. The Court relied on the language of Health Occupations Article § 19-101(f), which at that time provided that the practice of clinical social work included "rendering a diagnosis based on a recognized manual of mental and emotional disorders," and also on the advanced educational standards that the law imposed on licensed clinical social workers as opposed to other social workers. Chapter 554 of 2000, which took effect soon after the decision in *Adoption No. CCJ14746*, eliminated this language and added language which includes in the practice of social work by a licensed clinical social worker the "evaluation, diagnosis, and treatment of psychosocial


¹ I use the term "licensed clinical social worker" to refer to those licensees that the statute officially calls "licensed certified social worker - clinical."

The Honorable Samuel I. Rosenberg
January 30, 2004
Page 2

conditions and mental disorders as defined in § 10-101(f) of the Health - General Article” and the provision of psychotherapy. Health Occupations Article § 19-101(m)(4)(ii). This change provides licensed clinical social workers with at least as broad diagnostic authority as the former law, and thus, does not alter the conclusions in *Adoption No. CCJ14746. In re Yve S.*, 373 Md 551, 615 (2003).

In conclusion, it is my view that a licensed clinical social worker may be permitted to testify with respect to ultimate issues such as sanity and competence to stand trial.

Sincerely,



Kathryn M. Rowe
Assistant Attorney General

KMR/kmr
rosenberg81.wpd

Exhibit 2 -WCC TITLE 14 CH 08 LCSW-C MED PROVIDER

Uploaded by: arthur flax

Position: FAV

Title 14 INDEPENDENT AGENCIES

Subtitle 09 WORKERS' COMPENSATION COMMISSION

Chapter 08 Guide of Medical and Surgical Fees (Effective as of February 24, 2020)

Authority: Labor and Employment Article, §§9-309, 9-663, and 9-731, Annotated Code of Maryland

.01 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Ambulatory surgical center (ASC)" means any center, service, office facility, or other entity that:

(a) Operates primarily for the purpose of providing surgical services to patients requiring a period of postoperative observation but not requiring overnight hospitalization; and

(b) Seeks reimbursement from payers as an ambulatory surgery center.

(2) "Authorized provider" means:

(a) A licensed physician's assistant (P.A.), providing services on or after March 24, 2008;

(b) A licensed acupuncturist;

(c) A medical doctor (M.D.);

(d) A doctor of osteopathy (D.O.);

(e) A doctor of chiropractic (D.C.), for services provided within the scope of Health Occupations Article, Title 3, Annotated Code of Maryland;

(f) Podiatrist (D.P.M.);

(g) An optometrist (O.D.);

(h) A certified registered nurse anesthetist (C.R.N.A.);

(i) An occupational therapist (O.T.);

(j) A pharmacist (R. Ph.);

(k) A licensed physical therapist (P.T.);

(l) A psychologist (Ph.D.);

(m) A licensed clinical social worker (L.C.S.W.);

(n) A licensed audiologist;

Exhibit 3-Flax Certificate.pdf

Uploaded by: arthur flax

Position: FAV

Certificate of Completion

State of Maryland Workers' Compensation Commission



This is to certify that
ARTHUR FLAX

has successfully completed the MCRSP Workshop and has thereby
satisfied the mandatory requirements set forth by
COMAR 14.09.05.02E for Vocational Rehabilitation
Service Practitioners.

G0235

Practitioner Number

02/08/2023

Date

Regina Brown
Director of Support Services Division

Exhibit 4-TESTING FEDERAL BENEFITS.pdf

Uploaded by: arthur flax

Position: FAV

2005 Federal Employee Program Benefit Changes

Below are the Federal Employee Program (FEP) benefit changes to the Blue Cross and Blue Shield Service Benefit Plan, effective January 1, 2005.

Change to both Basic and Standard Options

- ❖ Benefits will be provided for inpatient and outpatient nutritional counseling for the treatment of anorexia and bulimia when rendered by any covered provider, including dietitians and nutritionists.

Basic Option Changes

Benefits will be at 100% of the Plan Allowance for:

- ❖ neurological/ psychological testing. testing by providers, such as psychiatrists, psychologists, clinical social workers and psychiatric nurses is subject to a \$20 copay. testing by a specialist is subject to a \$30 copay.
- ❖ Professional maternity care delivery. The \$100 copay for these services will be eliminated.
- ❖ Laboratory services billed separately from an office visit. The \$20 copay for these services will be eliminated.
- ❖ Radiological services and diagnostic tests billed separately from an office visit. The \$20 copay for these services will be eliminated.

2/20/2006

Solution Cen

- ❖ Need Claim Status
- ❖ Credentialing
- ❖ Phone Numbers
- ❖ Need to Refer a Pr
- ❖ Administrative Ca
- ❖ Disease Managem
- ❖ HIPAA
- ❖ Where to File a C
Professional, Inst
- ❖ Bridges to Excelle
- ❖ Find My Provide
Representative -
Professional, Insti
- ❖ Register for a Se

Exhibit 5 TDAP FORM 500- 8-2018.pdf

Uploaded by: arthur flax

Position: FAV

Family Investment Administration Medical Report Form 500

_____ Department of Social Services

The Family Investment Administration is committed to providing access, and reasonable accommodation in its services, programs, activities, education and employment for individuals with disabilities. If you need assistance or need to request a reasonable accommodation, please contact your case manager or call 1-800-332-6347.

Local District Office: _____ Date: _____

Case Manager: _____ Phone Number: _____

Customer's Name: _____ Customer ID#: _____

The information provided on this form may be used to determine eligibility for federal and State programs and participation in employment or training programs.

A. Patient Information:

Name of Patient: _____ Date of Birth: _____

Address: _____

B. Date/s of Examinations: First Visit: _____ Last Visit: _____

Presenting Symptoms: _____

Health Provider: Our goal is to help families gain the skills and knowledge needed to become self sufficient and independent of cash assistance programs. In terms of your patient's ability to perform work, attend training or attend an educational activity with a reasonable accommodation for any impairment, during an 8-hour day the patient can:

Activity	Unknown	No Restrictions	Never	1 hr	2 hrs	3 hrs	4 hrs	5 hrs	6 hrs	7 hrs	8 hrs
Sit											
Stand											
Walk											
Climb											
Bend											
Squat											
Reach											

Does this individual have a substance abuse issue? YES NO

If yes, do other medical conditions exist in addition to substance abuse? YES NO

Does this individual have a **visual impairment or disease** that limits or interferes with his or her ability to function independently, appropriately and effectively on a continuous basis? YES NO

C. Mental/Emotional Health Status:

Does this individual suffer from a mental illness? YES NO Is the mental illness severe enough to prevent the patient from working, participating in a work, training or educational activity. YES NO

To the best of your knowledge does the individual have any learning disabilities? YES NO

To the best of your knowledge, does the individual exhibit any violent behaviors? YES NO
If **yes**, please provide additional information at the end of this form.

Can the individual's impairment be expected to last at least 12 months or more? YES NO

Please give the length of time the patient's impairment is expected to last.

_____/_____/_____ to _____/_____/_____
Month Day Year Month Day Year

If less than a 12 month impairment, is the individual's medical condition expected to result in death?
 YES NO

D. Capacity to Work:

Does the individual's physical or mental health impairment result in the inability to work? YES NO

Parent with a disabled child: If this medical form is being completed for a child, does the child's condition require the parent to be in the home full time to provide care for the child? YES NO

Health Provider:

Please indicate below if this individual has other limitations not previously covered that would prevent the individual from working or participating in a work, training or educational activity

Please add comments or clarifications here.

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.

Signature: _____ Print Name: _____

Title: _____ License #: _____

Health Care Practice Name and Address: _____

Date: _____ Phone #: _____

Exhibit 6- MTA MOBILITY LCSW-C.pdf

Uploaded by: arthur flax

Position: FAV

FAILURE TO DO SO WILL DELAY A DETERMINATION OF ELIGIBILITY.

WE WILL PROCESS YOUR APPLICATION ONLY WHEN IT IS COMPLETE.




Maryland Transit Administration (MTA)

Mobility Certification Office

4201 Patterson Avenue, 2nd Floor, Baltimore, MD 21215

Phone: 410-764-8181

PART B: LICENSED PROFESSIONAL VERIFICATION

Dear Licensed/Certified Professional:

The Americans with Disabilities Act requires transit systems that operate fixed route service to offer complementary paratransit to people with disabilities who cannot use the regular MTA service. In accordance with the Act, the MTA offers a door-to-door bus service for those who cannot use the regular fixed-route buses.

To qualify for specialized MTA Mobility service, applicants must have a history of an impairment that substantially limits their ability to independently access, board, or ride other MTA services. A disability must prevent travel not merely make it more difficult to get to the bus stop, get on the bus, and ride independently.

MTA bases eligibility determinations on the information provided by the applicant. MTA also considers the information provided by the healthcare professional most able to describe the most limiting conditions of the applicant. Some applicants may be tested by our Occupation Therapist as well.

Passengers must be certified eligible in order to use the Mobility bus service. Applicants may be found eligible for this Mobility service for some or all of their trips. Be aware that all MTA fixed route and rail service are lift or ramp equipped.

In responding to the following questions, please focus on the applicants functional abilities. The information you provide, along with the applicant's information will enable us to make an appropriate determination. All information will be kept confidential.

If you have assisted an applicant completed Part A, you cannot also verify Part B. Persons completing Part B must be licensed or certified in one of the following specialties:

Vocational Rehabilitation Counselor
 Orientation and Mobility Instructor
 Respiratory Therapist
 Occupational or Physical Therapist
 Audiologist

Physician
 Physician's Assistant
 Nurse Practitioner
 Psychiatrist/ Psychiatric Social Worker
 Ophthalmologist

MOBILITY  **APPLICATION 7**

V.6-4-13

ORIGINAL SIGNATURES REQUIRED

Applicant's Name _____

SECTION 2: Medical Certification

Section 2 is to be completed by a licensed or certified health care professional, including physicians, registered nurses, social workers, certified alcohol and drug abuse counselors, etc. Some agencies and organizations that provide assistance to individuals with disabilities may not have licensed staff available for completing the application. If you have any questions, please contact the Manager of the Reduced Fare Office at 410-767-3398.

Information on this form will remain on file with the Maryland Transit Administration (MTA) and remain confidential to the fullest extent of the law.

Physicians and Healthcare Professionals

The standard for eligibility is located in the Code of Federal Regulations, 49 C.F.R. § 609.3. Individuals meeting the following definition are eligible for reduced fare:

“Individuals who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, including those who are nonambulatory wheelchair-bound and those with semi-ambulatory capabilities, are unable without special facilities or special planning or design to utilize mass transportation facilities and services as effectively as persons who are not so affected.”
49 C.F.R. § 609.3.

The criterion for eligibility is not the applicant's diagnosis per se; it is the functional ability of the applicant to use regularly scheduled MTA transit service. If the applicant is able to use such service but experiences extreme difficulty in doing so due to his/her medical condition, the individual is eligible. If the functional limitation that results from the medical condition is presently corrected by medical treatment, such as medication or prosthesis, the applicant does not qualify. If a temporary (greater than 90 days, but less than 1 year) qualifying condition exists, please describe the nature and expected duration. If the condition persists longer than the projected date, the applicant may re-apply.

Low income or substance use alone does not qualify an individual for reduced fare.

See last page of this document for further guidance.

HB-694 Flax-Suport Finance Committee 3-21-2023.pdf

Uploaded by: arthur flax

Position: FAV

March 21, 2023

Maryland General Assembly
Senators Melony Griffith, Katherine Klausmeier, and Committee Members
Finance Committee, Chair and Vice Chair
3 East Miller Senate Office Building
Annapolis, MD 21401

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

POSITION: SUPPORT

Dear Senators Griffith, Klausmeier and Members of the Committee:

Disclaimer: Although I consult with and enjoy membership in organizations, 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,



Arthur Flax, LCSW-C, DCSW

6126 D Greenmeadow Parkway
Baltimore, Maryland 21209-3349; 410-653-6300;

flaxcps@gmail.com

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.

Univ of Md School of Social Work testimony WCC HB-

Uploaded by: arthur flax

Position: FAV

Written Testimony in Favor of HB 694

Labor and Employment – Workers' Compensation – Licensed Certified Social Worker–Clinical

Thank you Chairman Delegate Crosby, Delegate Boaf, Delegate Grossman, and Delegate McCaskill, and all the members of the Economic Matters Committee for addressing this critical issue and therefore recognizing the vital role of social work. The University of Maryland, School of Social Work appreciates the opportunity to provide testimony in favor of HB 1164. This bill extends the current law defining "*rehabilitation practitioner*" by adding LCSW-Cs and would also include the LCSW-C to the licensed professionals who are identified to perform an evaluation for the Workers' Compensation Commission.

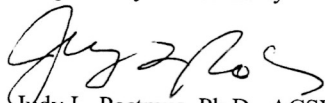
Current law restricts *rehabilitation practitioners* to include a nurse case manager, rehabilitation counselor, or vocation evaluator. In addition, it restricts the professionals who may perform an evaluation to a licensed psychologist or physician. The changes proposed in the bill will better reflect that the far majority of behavioral health services are delivered by licensed social workers and they have the expertise to assess, evaluate, and treat individuals with behavior health conditions.

We recognize and support the language in the bill that limits these tasks to only include a licensed social worker at the highest level of licensing, the LCSW-C, and not the other social work licenses (LBSW, LMSW, or LCSW.) The requirements to earn this highest level of licensure include the following steps which take a minimum of over a four-year process before earning the LCSW-C. Below is a description of the minimum requirements:

1. earn a master's degree from an accredited program;
2. successfully complete a minimum of 900 hours in two field placement practicums/professional internships;
3. practice social work competencies in both field placements under the supervision of a licensed and experienced social worker;
4. pass all the clinical coursework which is required for the LCSW-C;
5. pass the first (of two) national licensing test administered through the National Association of Social Work Boards (ASWB) or the *Masters exam*;
6. complete additional application requirements to earn the LMSW license;
7. work with their LMSW license for a minimum of 3,000 hours of social work experience under the supervision of a LCSW-C;
8. the work experience must be "clinical social work experience" which is defined to include: completing assessments; formulating diagnostic impressions or a diagnosis; treating mental disorders and other conditions; treating behavioral health disorders including substance use disorders, addictive disorders and other conditions; and providing psychotherapy;
9. pass the second national licensing test administered through the National Association of Social Work Boards (ASWB) which tests their clinical knowledge or *Clinical exam*; and
10. complete a minimum of 40 hours of continuing education in social work practice every two-year period.

I share these details to highlight that the steps along the social work licensing pathway for the LCSW-C has more than screened and prepared them to provide comprehensive services and evaluations concerning Workers' Compensation matters. Thank you for your consideration of HB 694.

Respectfully submitted by



Judy L. Postmus, Ph.D., ACSW, Dean & Professor
University of Maryland School of Social Work

HB0694 - Senate_FAV_MdCSWC_Labor & Emp. - Workers'

Uploaded by: Christine Krone

Position: FAV

MdCSWC

The Maryland Clinical Social Work Coalition

The MdCSWC, sponsored by the Greater Washington Society for Clinical Social Work, represents the interests of more than 9,300 licensed clinical social workers in Maryland.

TO: The Honorable Melony Griffith, Chair
Members, Senate Finance Committee
The Honorable Adrian Boafó

FROM: Judith Gallant, LCSW-C, Chair, Maryland Clinical Social Work Coalition

DATE: March 22, 2023

RE: **SUPPORT** – House Bill 694 – *Labor and Employment – Workers’ Compensation – Licensed Certified Social Worker-Clinical*

The Maryland Clinical Social Work Coalition (MdCSWC), sponsored by the Greater Washington Society for Clinical Social Work, represents the interests of more than 9,300 licensed clinical social workers in Maryland. On behalf of MdCSWC, we **support** House Bill 694.

House Bill 694 would authorize a licensed certified social worker-clinical (LCSW-C) to register as a rehabilitation practitioner to provide evaluation services for workers’ compensation claims related to permanent impairments involving a behavioral or mental disorder. Currently, rehabilitation practitioners include: (1) a nurse certified by the State Board of Nursing as a nurse case manager; (2) a rehabilitation counselor; and (3) a vocational evaluator (*see §9–6A–01(d)(2) of the Labor and Employment article*). House Bill 694 would add a “licensed certified social worker-clinical as certified by the state board of social work examiners” to the list of eligible providers.

Currently, LCSW-Cs can complete a training through the Workers’ Compensation Commission to register as a vocational rehabilitation service practitioner as set forth by COMAR 14.09.05.02E. Once they complete this training, they are allowed to provide evaluation services in workers’ compensation claims involving a behavioral or mental disorder. However, the current statute severely limits the services LCSW-Cs can provide. They can provide care, take the person off work to qualify for Temporary Total Disability while in treatment, etc., but they cannot testify on the extent of the effect of the impairment of the person based on their recommendations, and the records of other providers. However, a psychologist can review the LCSW-C’s records, interview the person briefly, and testify as to the extent of the impairment.

LCSW-Cs meet or exceed all the qualification and experience requirements to be able to register as a rehabilitation practitioner in workers’ compensation claims. For the reasons stated above, MdCSWC supports House Bill 694.

For more information call:

Christine K. Krone
Pamela Metz Kasemeyer
Danna L. Kauffman
410-244-7000

Greater Washington Society for Clinical Social Work: www.gwscsw.org

Contacts: Coalition Chair: Judy Gallant, LCSW-C; email: jg708@columbia.edu; mobile (301) 717-1004
Legislative Consultants: Pamela Metz Kasemeyer and Christine Krone, Schwartz, Metz, Wise & Kauffman, PA,
20 West Street, Annapolis, MD 21401

Email: pmetz@smwpa.com; mobile (410) 746-9003 ; ckrone@smwpa.com; mobile (410) 940-9165

DelegateBoafoTestimonyHB694.pdf

Uploaded by: Delegate Adrian Boafo

Position: FAV

ADRIAN BOAFO
Legislative District 23
Prince George's County

Economic Matters Committee



The Maryland House of Delegates
6 Bladen Street, Room 219
Annapolis, Maryland 21401
410-841-3047 · 301-858-3047
800-492-7122 Ext. 3047
Adrian.Boafo@house.state.md.us

THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

Chairwoman Melony Griffith
Senate Finance Committee
Miller Senate Building, 3 East
Annapolis, Maryland 21401

Dear Chairwoman Griffith and Members of the Senate Finance Committee:

HB694 allows for a licensed clinical social worker to become a licensed rehabilitation practitioner under the Workers' Compensation Commission. This will allow more licensed professionals to provide evaluation and rehabilitation services for workers covered under worker's compensation insurance claims for mental and behavioral disorders. Licensed clinical social workers already have the skills and knowledge to provide these services which would allow claimants to fully focus on their recovery in order to return back to work.

Additionally, due to a workforce shortage of medical professionals, especially in rural areas, allowing clinical social workers to become licensed rehabilitation practitioners will expand eligible professionals who can provide the assessment, diagnosis, treatment, and prevention of mental illness, emotional, and other behavioral disturbances that would otherwise only be done by a physician or psychologist.

HB694 passed unanimously in the House and has the support of the Maryland Association of Justice, the University of Maryland School of Social Work, The Maryland Clinical Social Work Coalition, the Maryland Board of Social Work Examiners, and the Maryland Chapter of the National Association of Social Workers.

I strongly urge a favorable report on HB694.

Thank you,

Delegate Adrian Boafo

NASW Maryland - 2023 HB 694 FAV - Workers Comp - S

Uploaded by: Judith Schagrin

Position: FAV

Senate Finance Committee

March 22, 2023

**House Bill 694: Labor and Employment - Workers' Compensation –
Licensed Certified Social Worker-Clinical**

*****SUPPORT*****

On behalf of Maryland's Chapter of the National Association of Social Workers (NASW-MD), we would like to express our support for House Bill 694. NASW-MD has reviewed the requirements for Workers Compensation Rehabilitation Practitioners, and Case Managers, and for providing an evaluation of the mental or behavioral portion of the permanent impairment and report the evaluation to the Commission in accordance with the regulations of the Commission

All the essential functions required of a "Rehabilitation Practitioner," and to perform the evaluation of the mental or behavioral portion of the permanent impairment are authorized in Health Occupations Article, Title 19 Social Worker Practice Act, for the Licensed Certified Social Worker-Clinical (LCSW-C) licensee.

Case Management is specifically authorized and is well within the scope of practice of the LCSW-C. LCSW-Cs are also authorized to independently evaluate, diagnose, and treat mental and emotional disorders, conditions and impairments. Preventing the LCSW-C from engaging, arbitrarily, in their full scope of practice authorized in Maryland law appears to be a restraint of trade, which limits employment opportunities in vocational rehabilitation and the comprehensive evaluative assessment of the injured worker.

Further, the LCSW-C is authorized to certify sick leave, evaluate for temporary total disability, but is not allowed to evaluate or testify as to the degree of permanent impairment. This 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.

Therefore, this legislation is strongly supported, does not interfere with the current procedures, and is cost effective as the LCSW-C will be required to register and pay the required fee to the Workers Compensation Commission in order to participate.

Mary Beth DeMartino, LCSW-C
Executive Director, NASW-Maryland

11 - HB 694 (3rd) - FIN - Social Work Bd - LOS.doc

Uploaded by: State of Maryland (MD)

Position: FAV



Board of Social Work Examiners

Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

*Sondra G. Petty, Chair – Daphne McClellan, Executive Director
4201 Patterson Avenue, Suite 318 Baltimore MD 21215 Phone: 410-764-4788*

March 22, 2023

The Honorable Melony Griffith
Chair, Senate Finance Committee
3 East Miller Senate Office Building,
Annapolis, MD 21401-1991

RE: House Bill 694 – Labor and Employment – Workers’ Compensation – Licensed Certified Social Worker–Clinical – Letter of Support

Dear Chair Griffith and Committee members:

The Maryland Board of Social Work Examiners (the Board) is submitting this letter of support for HB 694 - Labor and Employment – Workers’ Compensation – Licensed Certified Social Worker–Clinical.

This bill would authorize a Licensed Certified Social Worker-Clinical (LCSW-C) to register as a rehabilitation practitioner, to provide evaluation services for workers’ compensation claims related to permanent impairments involving a behavioral or mental disorder. LCSW-Cs would join the currently recognized nurse case managers, rehabilitation counselors and vocational evaluators in providing this service to the public.

LCSW-Cs are licensed as such because their education, experience and knowledge tested on a national exam demonstrate that they are capable of making these professional judgments. In addition, any social worker who is neither trained nor experienced in this area is ethically bound to refrain from practicing or testifying in this area.

The scope for an LCSW-C outlined in Health Occupation Article § 19-101 (n) states “(5) 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 § 7.5–101 of the Health – General Article; (iii) Petitioning for emergency evaluation under Title 10, Subtitle 6 of the Health General Article; and (iv) The provision of psychotherapy.”

For these reasons, the Board supports HB 694 and are pleased to support those social workers who can fulfill this important role for the public.

I hope this information is useful. If you would like to discuss this issue further, please contact me at Daphne.McClellan@maryland.gov or 410-764-4722.

Sincerely,

A handwritten signature in cursive script that reads "Daphne L. McClellan".

Daphne McClellan, PhD, MSW
Executive Director
Board of Social Work Examiners

The opinion of the Board expressed in this letter of support does not necessarily reflect that of the Department of Health or the Administration.

HB 694 Chesapeake-IWIF Testimony_Senate Finance .p

Uploaded by: Lyndsey Meninger

Position: UNF



Senate Finance Committee
March 22, 2023

Testimony of Chesapeake Employers' Insurance Company and Injured Workers' Insurance Fund in Opposition to House Bill 694

House Bill 694 proposes to authorize a licensed certified social worker–clinical to register as a rehabilitation practitioner, and to authorize a licensed certified social worker–clinical to provide evaluation services for workers' compensation claims related to permanent impairments involving a behavioral or mental disorder under Labor and Employment, § 9-721.

Currently, under Labor and Employment, § 9-721, only a physician or psychologist provides permanent impairment ratings for purposes of workers' compensation evaluations (COMAR 19.09.09.03 extends psychiatric impairment evaluations to psychiatrists as well). Given the long-standing practice of only physicians, psychologists, or psychiatrists providing ratings, Chesapeake Employers' Insurance Company and the Injured Workers' Insurance Fund are concerned about the departure to non-physicians, psychologists or psychiatrists providing ratings and evaluations since the evaluations must conform to standards set forth by the American Medical Association's "Guide to the Evaluations of Permanent Impairment", and therefore have been routinely completed by the above-mentioned physicians.

Given the departure from well settled law and practice, Chesapeake Employers' and Injured Workers' Insurance Fund respectfully oppose House Bill 694.

*Contact: Carmine G. D'Alessandro, Esq.
Chief Legal Officer
Chesapeake Employers Insurance Company/IWIF
(410)-494-2305
cdalessandro@ceiwc.com*

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HB 694 APCIA WC Social Worker Oppose 032323.pdf

Uploaded by: Nancy Egan

Position: UNF



Testimony of

American Property Casualty Insurance Association (APCIA)

Senate Finance Committee

House Bill 694 - Labor and Employment - Workers' Compensation - Licensed Certified Social Worker-Clinical

March 23, 2023

Letter of Opposition

The American Property Casualty Insurance Association (APCIA) is a national trade organization whose members write approximately 65% of the U.S. property-casualty insurance market, including 90% percent of Maryland's workers' compensation market. APCIA appreciates the opportunity to provide written comments in opposition to House Bill 694.

This bill authorizes a licensed certified social worker-clinical ("LCSW") to register with the Workers' Compensation Commission (WCC) as a rehabilitation practitioner for purposes of providing rehabilitation services under the workers' compensation law. To qualify for registration, an LCSW must be certified by the State Board of Social Work Examiners. APCIA **does not object** to this portion of the bill.

However, APCIA **does object** to the bill's authorization of LCSWs to perform an evaluation of the mental or behavioral portion of a permanent impairment in a workers' compensation claim involving such disorders. It is generally accepted that this type of evaluation should only be conducted by **licensed psychologists and qualified physicians**. As indicated in the State of Rhode Island's Workers' Compensation Protocols When Primary Injury is Psychiatric/Psychological, "The evaluation and assignment of mental illness diagnosis must take place in a face-to-face evaluation of the patient performed by a psychiatrist or doctoral level clinical psychologist."

For these reasons, APCIA urges the Committee to provide an unfavorable report on House Bill 694.

Nancy J. Egan,

State Government Relations Counsel, DC, DE, MD, VA, WV

Nancy.egan@APCIA.org Cell: 443-841-4174

HB 694 - Oppose - MPS WPS (Senate Testimony).pdf

Uploaded by: Thomas Tompsett

Position: UNF



March 21, 2023

The Honorable Melony Griffith
Senate Finance Committee
3 East - Miller Senate Office Building
Annapolis, MD 21401

RE: Oppose – House Bill 694: Labor and Employment - Workers' Compensation - Licensed Certified Social Worker-Clinical

Dear Chair Griffith and Honorable Members of the Committee:

The Maryland Psychiatric Society (MPS) and the Washington Psychiatric Society (WPS) are state medical organizations whose physician members specialize in diagnosing, treating, and preventing mental illnesses, including substance use disorders. Formed more than sixty-five years ago to support the needs of psychiatrists and their patients, both organizations work to ensure available, accessible, and comprehensive quality mental health resources for all Maryland citizens; and strive through public education to dispel the stigma and discrimination of those suffering from a mental illness. As the district branches of the American Psychiatric Association covering the state of Maryland, MPS and WPS represent over 1000 psychiatrists and physicians currently in psychiatric training.

MPW/WPS oppose House Bill 694: Labor and Employment - Workers' Compensation - Licensed Certified Social Worker-Clinical (HB 694). Social workers lack the training and licensing to determine disability in a workers' compensation case. Determining disability in a workers' compensation case typically requires a comprehensive understanding of medical conditions and their impact on an individual's ability to work. Such conclusions are typically the domain of medical professionals, such as physicians and other healthcare professionals. In fact, the evaluations utilized to determine causality and Impairment Ratings in Workers' Compensation cases are called Independent Medical Examinations (IMEs). Physicians can become Board Certified as IMEs as an option.

Social workers may have a role in a workers' compensation case in terms of providing support and resources to injured workers, such as helping them navigate the workers' compensation system, providing counseling and emotional support, and connecting them with community resources. However, social workers are not qualified to make medical determinations regarding disability or provide medical treatment.

In short, while social workers may have a valuable role to play in workers' compensation cases, determining disability rating is typically outside the scope of their training and expertise. We must remember that these disability ratings have lifelong legal and financial implications for the



injured worker and should be as thorough and accurate as possible. This role should remain reserved for medical professionals with the appropriate education and licensing.

For all the reasons above, MPS/WPS urges this honorable committee to give an unfavorable report to HB 694. If you have any questions concerning this testimony, please feel free to contact Thomas Tompsett Jr. at tommy.tompsett@mdlobbyist.com.

Respectfully submitted,
The Maryland Psychiatric Society and the Washington Psychiatric Society
Legislative Action Committee