



March 6, 2022

The Honorable Luke Clippinger
House Judiciary Committee
House Office Building - Room 101
Annapolis, MD 21401

RE: Oppose – HB 1070: Courts - Expert Witnesses - Licensed Certified Social Workers-Clinical

Dear Chairman Clippinger 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.

MPS/WPS oppose House Bill 1070: Courts - Expert Witnesses - Licensed Certified Social Workers-Clinical (HB 1177). Presently, Maryland law allows expert testimony by social workers in limited circumstances related to family law, such as child custody and visitation, termination of parental rights, and child abuse investigations.¹ Nationally, expert testimony is governed through statutes, case law, and regulation. All states restrict the classes of professionals who are allowed to testify in court, with all states permitting psychiatrists and most permitting psychologists.² Far fewer states allow non-psychiatric physicians, social workers, or other professionals to testify and in these cases, testimony is limited to non-criminal issues.

Surveys of judges, defense attorneys, and prosecutors have shown a preference for evaluations performed by psychiatrists, closely followed by a preference for doctoral-level psychologists, with all other mental health professionals being far less preferred. Concerning the ultimate

¹ *In re Adoption/Guardianship of Tatianna B*, <https://mdcourts.gov/data/opinions/coa/2010/36a10.pdf>

COMAR 07.02.07.02, <http://mdrules.elaws.us/comar/07.02.07.02>

² FROST, L. E.; DE CAMARA, R. L.; EARL, T. R. Training, Certification, and Regulation of Forensic Evaluators. *Journal of Forensic Psychology Practice*, [s. l.], v. 6, n. 2, p. 77–91, 2006.



issue of testimony about insanity, competence, and diminished capacity, only expert testimony from psychiatrists was deemed "clearly admissible."³

The pretrial competency assessment process has been a focus of concern nationally due to trial delays and the need for expert testimony. The Council on State Governments, the American Psychiatric Association Foundation, and the National Association of State Mental Health Program Directors recommend that states convene workgroups to review the forensic evaluation process as well as increased the use of community-based services and support to relieve this problem.⁴ The Maryland and Washington Psychiatric Societies support this effort and offer our assistance.

Therefore, MPW/WPS asks for an unfavorable report on HB 1070. If you have any questions about 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

³ 4. Redding R, Floyd M, Hawk G. What judges and lawyers think about the testimony of mental health experts: a survey of courts and bar. *Behavioral Sciences and the Law* 19:583-594, 2001.

5. Poythress N. Psychological issues in criminal proceedings: judicial preference regarding expert testimony. *Criminal Justice and Behavior*. 10(2):175-194, 1983.

⁴ Council of State Governments Justice Center. Rethinking how states approach competency to stand trial. October 2020. Available at: <https://csgjusticecenter.org/wp-content/uploads/2020/10/Just-and-Well27OCT2020.pdf>