

February 26, 2024
Maryland General Assembly
Delegates C.T. Wilson Chair, and Brian M. Crosby, Vice Chair
Delegate Susan McComas, Sponsor
Economic Matters Committee
Room 231
House Office Building
Annapolis, Maryland 21401

RE: HB-1285 WORKERS' COMPENSATION – Rehabilitation Practitioners – Licensed Social Workers

POSITION: FAVORABLE-SUPPORT

Dear Delegate Wilson and Members of the Committee:

Disclaimer: The opinions and suggested amendments concerning HB-1185 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, or educational institution.

Workers Compensation Case Manager:

I support this legislation, based upon my experience and knowledge: I am a Registered (State of Maryland Workers Compensation Commission) Support Services Division as a Vocational Rehabilitation Practitioner (G0235) as a Counselor/Evaluator.

Enable Licensed Social Workers along with Nurses, to be identified as Case Managers, if the Licensed Social Worker, is qualified, and desires to also provide this service. Presently, Licensed Social Workers are (if registered with the WCC Support Service Division) Practitioners –Counselors / Evaluators. Frankly, there are not enough WCC Case Managers, particularly in urban and rural communities; this will increase the number of qualified health care practitioners to provide this needed service.

Presently, only nurses are recognized in the **Labor and Employment Article Sec.9 Workers Compensation, Subtitle Sec.9-6A-09** as Nurse Case Managers. The essential duties of an Licensed Social Worker (several categories of licensure), in various settings, are comparable to those of a nurse case manager, which includes, but is not limited to, home visits, arranging for and taking patients to health care appointments, maintaining and organizing records and consultation with medical and rehabilitation facilities, including interactions with insurance companies, and making referrals for care.

Supervision:

Under L&E 9-6A-09 The LCSW-C is authorized to evaluate, diagnose, and treat the injured worker independently. The current statute is confusing; I support an amendment to clarify the language requiring supervision. Presently, it appears a person certified (by a non-governmental organization) as a disability management specialist may be required to provide supervision of the Practitioner.

SEC. 9-721 Testimony Concerning Permanent Impairment:

There are not enough psychiatrists, psychologists or psychiatric nurse practitioners trained and able to, in a timely manner, evaluate, and or treat, and testify concerning mental illness, mental disorders, conditions and impairments of the injured worker. This results poor coordination with other health care providers, assessing

contributing factors alleged in a claim, and a delay in resolution of claims. The qualified Licensed Certified Social Worker-Clinical will benefit the claimant, and the Workers Compensation Commission.

I support Sec. 9-721 (c) be amended to include the Licensed Certified Social Worker-Clinical- The Attorney General Advice of Counsel(s) affirms the LCSW-C may testify as an Expert Witness. **(See AG Advice of Counsel dated 01/25/2024 referencing HG-Sec. 7.5-101 –I (1) (2))** and Title 14, Independent Agencies, Subtitle 09, Workers Compensation Commission, Chapter 08 Guide to Medical and Surgical Fees; and Health Care Practitioner HO-Sec.1-901 (v).; The Scope of Practice of the LCSW-C, includes evaluation, diagnosis, and treatment including determinations of impairment. An LCSW-C may evaluate, determine Temporary Total Impairment and Certify Sick Leave, and submit findings to the Commission, but my analysis and conclusions cannot be admitted for consideration at the Hearing or on Appeal as to Permanent Impairment.

Presently, an entire classification of licensee, no matter how well individually qualified, is not allowed to testify concerning permanent impairment. The Hearing Officer or Judge should be the authority to decide if the Health Care Practitioner is qualified to testify.

In support of this amendment, I submit the following attached documentation:

Sincerely,



Arthur Flax, LCSW-C, DCSW

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Attachments:

HEALTH OCCUPATIONS TITLE 19. SOCIAL WORKERS SUBTITLE 1 DEFINITIONS; GENERAL PROVISIONS § 19-101. Definitions

1. (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; (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.
2. January 25, 2024 AG Advice of Counsel; Md. Code, Health Gen. Sec. 7.5-101(l) (1) (2) Expert Witness; the LCSW-C may testify as an Expert Witness as a Health Care Provider. 3. On January 30, 2004, an AG Advice of Counsel was issued (See attachments).
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, per individual education training, may conduct various assessments and testing reference: Blue Cross Blue Shield Federal Employee Benefits Program (2005) (Pearson Testing Qualifications based on APA Standards) and or like a physician refer the injured worker for testing and then include those results within the treatment plan and testimony.