AFlax Testimony WCC-SB-931 (2024).pdf
Uploaded by: arthur flax
Position: FAV

March 3, 2024
Maryland General Assembly
Finance Committee
Senator Pamela Beidle, Chair
Senator Katherine Klausmeier, Vice Chair (Sponsor)
And Members of the Committee
3 East
Miller Senate Office Building
Annapolis, Maryland 21401

RE: SB-931 WORKERS' COMPENSATION – Rehabilitation Practitioners – Licensed Social Workers

POSITION: FAVORABLE-SUPPORT

Dear Senators Beidle, Klausmeier, 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 Maryland Workers Compensation Commission, Support Services Division, Registered Vocational Practitioner(G0235) as a Counselor/Evaluator.
Sec.9-6A-09
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 Services 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, and COMAR 14.09.08 The LCSW-C is authorized to evaluate, diagnose, and treat the injured worker independently as an "authorized provider" for workers compensation reimbursement purposes. The current statute is confusing; I support an amendment to clarify the language to not require 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. HO-19-101(n)(1) and specifically, the **LCSW-C, the "Practice of Social Work" also includes** the (1) supervision of other social workers (2**) evaluation, diagnoses, and treatment of biopsychosocial conditions, mental and emotional conditions and impairments, and behavioral health disorders, including substance abuse disorders, addictive disorders, and mental disorders, as defined in Sec. 7.5-101 of the Health General Article (3) Petitioning for an Emergency Evaluation, (4) provision of psychotherapy (HO-19-101(n)(1)and (5).**

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 analysis and conclusions cannot be admitted for consideration at the Hearing or on Appeal as to Permanent Impairment.

The American Medical Association Guides to the Evaluation of Permanent Impairment, 4th. 5th, and 6th Editions, Chapter 14, Mental and Behavioral Disorders, **Administered by: Psychiatrists, psychologists or other trained rater** (usage is not limited to physicians and psychologists). (Maryland statute uses the AMA Guides to the Evaluation of Permanent Impairment ... Disorders 4th Edition). The 14th Chapter "Mental and Behavioral Disorders" is not limited to evaluation by a physician or psychologist; this Chapter considers takes into account the person in the context of his or her environment and ability to cope and adjust. Numerical rating are not always used as they are in somatic evaluations of physical illness.

Presently, an entire classification of licensee, no matter how well individually qualified, is not allowed to be permitted to be qualified by the Commissioner or Judge in conjunction with attorneys concerning the evaluation and testifying concerning permanent impairment on a case by case basis. On a personal note, I was referred cases by the Workers Compensation Commission (Regina Roberts, was then the Director of the Support Services Division) to evaluate and make determinations until it was clarified an LCSW-C could not evaluate permanent impairment. Cases referred to me, to assess, were from both defense and claimants counsel where there were large discrepancies' in evaluations conducted by physicians. The Hearing Officer or Judge should be the authority to decide if the Health Care Practitioner is qualified to testify **(HG-Sec. 7.5-101 –I (1) (2)).**
In support of this amendment, I submit the following attached documentation:
Sincerely,

Arthur Flax, LCSW-C, DCSW
6126 D Greenmeadow Parkway
Baltimore, Maryland 21209-3349; 410-653-6300;
flaxcps@gmail.com

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 and training, may conduct various assessments and testing reference: Blue Cross Blue Shield Federal Employee Benefits Program (2005) (Pearson Testing Qualifications based on APA Standards).

6. Workers Compensation Commission Labor and Employment Article, Sec.9-309, 9-663, and 9-731; COMAR 14-09-08. LCSW-C "authorized provider".

7. HB-1289 Fiscal and Policy Note—LCSW-C Scope of Practice

8. CMS Final Rule Effective 01/01/2024 Includes the LCSW-C.

Exhibit 2 -AG ADVICE UPDATED LCSW-C Expert Witness

Uploaded by: arthur flax

Position: FAV

CANDACE MCLAREN LANHAM
Chief Deputy Attorney General

CAROLYN A. QUATTROCKI
Deputy Attorney General

LEONARD J. HOWIE III
Deputy Attorney General

CHRISTIAN E. BARRERA
Chief Operating Officer

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SHAUNEE L. HARRISON
Assistant Attorney General

JEREMY M. MCCOY
Assistant Attorney General

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

January 25, 2024

The Honorable Susan K. McComas
Maryland House of Delegates
411 Lowe House Office Building
Annapolis, Maryland 21401
Via email

Dear Delegate McComas:

You have inquired whether a licensed certified social worker-clinical ("LCSW-C") may be qualified to testify as a witness on ultimate issues regarding matters within the scope of practice for clinical social work. As earlier advised by this office, (*see* Letter of Advice to the Honorable Samuel I. Rosenberg from Asst. Atty. Gen. Kathryn M. Rowe (Jan. 30, 2004) ("Rosenberg Letter")), a LCSW-C may be qualified to testify on matters within the scope of practice for clinical social work by a LCSW-C.

A LCSW-C is an individual licensed by the State Board of Social Work Examiners to practice clinical social work. Md. Code Ann., Health Occupations Article ("HO"), § 19-101(h). "Practice clinical social work" means to use the specialized education, training, and experience required under HO § 19-302(e) to practice social work. HO § 19-101(l). "Practice social work" is defined under HO § 19-101(n)(1), and specifically for a LCSW-C, the "practice of social work" also includes the: (1) supervision of other social workers; (2) "[e]valuation, diagnosis, and treatment of biopsychosocial conditions, mental and emotional conditions and impairments, and behavioral health disorders, including substance abuse disorders, addictive disorders, and mental disorders, as defined in § 7.5-101 of the Health-General Article;" (3) petitioning for emergency evaluation under Title 10, Subtitle 6 of the Health-General Article; and (4) provision of psychotherapy. HO § 19-101(n)(1) and (5).

Maryland Rule 5-702 addresses the admissibility of expert testimony in State court proceedings. The rule allows a trial court to admit expert testimony "in the form of an opinion or otherwise, if the court determines that the testimony will assist the trier of fact to understand the evidence or to determine a fact in issue." Md. Rule 5-702. In making the determination, the rule requires a court to examine three factors: "(1) whether the witness is qualified as an expert by knowledge, skill, experience, training, or education[;] (2) the appropriateness of the expert testimony on the particular subject[;] and (3) whether a sufficient factual basis exists to support the expert testimony." *Id.*

In *In re Adoption/Guardianship No. CCJ14746, in the Circuit Court for Washington County*, 360 Md. 634 (2000), the Maryland Supreme Court held that the trial court in that case did not abuse its discretion in finding a licensed clinical social worker qualified as an expert and in admitting his opinion on the respondent's mental disorders. The Court relied on the then-existing statutory definition of the practice of social work under then HO § 19-101(f), which included "rendering a diagnosis based on a recognized manual of mental and emotional disorders[,]" as well as the advanced educational standards required for licensed clinical social workers. *Id.* at 642-43. Subsequent to the Court's opinion in that case, the General Assembly enacted Chapter 554 of the Acts of 2000, which modified the language of the scope of practice under former HO § 19-101(f), and added the scope of practice language for LCSW-Cs that is similar to the scope of practice language under existing HO § 19-101(n)(1) and (5). As this office has previously advised, "[t]his change provides [LCSW-Cs] with at least as broad diagnostic authority as the former law, and thus, does not alter the conclusions in *Adoption No. CCJ14746*." Rosenberg Letter at 2. *See also In re Yve S.*, 373 Md. 551, 615 (2003) ("A witness may not testify to the effect of making a diagnosis concerning mental illness unless he or she is a physician qualified to make such a diagnosis or prognosis, or unless they are otherwise authorized by statute to make such diagnosis.").

For these reasons, subject to the discretion of a trial court to determine the admissibility of expert testimony under Maryland Rule 5-702, a LCSW-C may be qualified to testify on matters within the scope of practice for clinical social work by a LCSW-C.

I hope this is responsive to your request. If you have any questions or need any additional information, please feel free to contact me.

Sincerely,

Jeremy M. McCoy
Assistant Attorney General

Exhibit 2-HG 7.5-101 Health Care Provider LCSW-C.p

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Position: FAV

Md. Code, Health-Gen. § 7.5-101

Current with changes from the 2023 Legislative Session

Section 7.5-101 - Definitions

(a) In this title the following words have the meanings indicated.

(b)

(1) "Addictive disorder" means a chronic disorder of the brain's reward-activation system in which the individual pathologically pursues reward or relief by substance use or other behaviors, with diminished control, and the individual persists in the behavior despite adverse consequences.

(2) "Addictive disorder" includes gambling, which is the only nonsubstance-related addictive disorder recognized by Maryland law.

(c) "Administration" means the Behavioral Health Administration.

(d) "Behavioral health" includes substance-related disorders, addictive disorders, and mental disorders.

(e) "Behavioral health care" includes prevention, screening, early intervention, treatment, recovery, support, wraparound, and

disorders program, a mental health program, or an addictive disorders program, or a program that consists of more than one of these programs.

(g) "Core service agency" means the designated county or multicounty authority that is responsible for planning, managing, and monitoring publicly funded mental health services.

(h) "Director" means the Director of the Administration.

(i) "Family support services" means a set of nonclinical activities provided by family members of individuals with mental health or substance-related disorders and addictive disorders to support individuals with mental health or substance-related disorders and addictive disorders or their families.

(j) "Local addictions authority" means the designated county or multicounty authority that is responsible for planning, managing, and monitoring publicly funded substance-related disorders and addictive disorder services.

(k) "Local behavioral health authority" means the designated county or multicounty authority that is responsible for planning, managing, and monitoring publicly funded mental health, substance-related disorder, and addictive disorder services.

(l)

(1) "Mental disorder" means a behavioral or emotional illness that results from a psychiatric disorder.

(2) "Mental disorder" includes a mental illness that so substantially impairs the mental or emotional functioning of an individual as to make care or treatment necessary or advisable for the welfare of the individual or for the safety of the person or property of another.

(3) "Mental disorder" does not include an intellectual disability.

Exhibit 3-Atty Gen- ULTIMATE ISSUE 1-30-2004.pdf
Uploaded by: arthur flax
Position: FAV

J. Joseph Curran, Jr.
Attorney General

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Deputy Attorney General

Robert A. Zarnoch
Assistant Attorney General
Counsel to the General Assembly

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."

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 4-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 5-blue cross testing.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 dieticians 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

Exhibit 5-Pearson Testing Qualifications.pdf

Uploaded by: arthur flax

Position: FAV

Qualifications policy

Pearson is committed to maintaining professional standards in testing as presented in the *Standards for Educational and Psychological Testing* published by the American Educational Research Association (AERA), American Psychological Association (APA), and the National Council on Measurement in Education (NCME). A central principle of professional test use is that individuals should use only those tests for which they have the appropriate training and expertise. Pearson supports this principle by stating qualifications for the use of particular tests, and selling tests to individuals who provide credentials that meet those qualifications. The policies that Pearson uses to comply with professional testing practices are described below.

The "Qualified User" is the individual who assumes responsibility for all aspects of appropriate test use, including administration, scoring, interpretation, and application of results. Some tests may be administered or scored by individuals with less training, as long as they are under the supervision of a Qualified User. To assist the qualified user, each test manual will provide additional detail on administration, scoring and/or interpretation requirements and options for the particular test.

We only accept orders identifying a Qualified User who is registered on our website or had previously submitted their qualifications. Prior to March 1, 2019 this information may have been submitted via an online form. Customers who submitted qualification forms in this manner were migrated over automatically. All new submissions must be done through the creation of a website account and adding qualification details to their website account.

Qualification Level A

There are no special qualifications to purchase these products.

Qualification Level B

Tests may be purchased by individuals with:

- A master's degree in psychology, education, speech language pathology, occupational therapy, social work, counseling, or in a field closely related to the intended use of the assessment, and formal training in the ethical administration, scoring, and interpretation of clinical assessments.

OR

OR

- Formal, supervised mental health, speech/language, occupational therapy, social work, counseling, and/or educational training specific to assessing children, or in infant and child development, and formal training in the ethical administration, scoring, and interpretation of clinical assessments.

OR

- Work for an accredited institution

Qualification Level C

Tests with a C qualification require a high level of expertise in test interpretation, and can be purchased by individuals with:

- A doctorate degree in psychology, education, or a closely related field with formal training in the ethical administration, scoring, and interpretation of clinical assessments related to the intended use of the assessment.

OR

- Licensure or certification to practice in your state in a field related to the purchase.

OR

- Certification by or full active membership in a professional organization (such as APA, NASP, NAN, INS) that requires training and experience in the relevant area of assessment.

Exhibit 6-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;

(16) "Resource based relative value scale (RBRVS)" means the system by which medical providers are reimbursed based on the resource costs needed to provide a given service. Under the RBRVS, CMS assigns each medical procedure a relative value quantifying the relative work (work), practice expense (PE), and malpractice costs (MP) for each service.

(17) "RBRVS relative value unit (RVU)" means the uniform value assigned by CMS to each medical procedure and service identified by CPT/HCPCS code quantifying the work (work), practice expense (PE), and malpractice costs (MP) for each service.

(18) "Time Unit" means a measure of each 15-minute interval, or fraction thereof, during which anesthesiology services are performed.

.02 Incorporation by Reference.

A. The "Official Maryland Workers' Compensation Medical Fee Guide" (1995) is incorporated by reference.

B. Health Services Cost Review Commission. In accordance with Health-General Article, §19-211, Annotated Code of Maryland, in the case of a discrepancy between a rate for a hospital service set by the Health Services Cost Review Commission and that set by the Workers' Compensation Commission, the rate set by the Health Services Cost Review Commission shall prevail.

(3) The facility MRA shall be calculated by multiplying each RBRVS RVU by each corresponding GPCI, adding those sums, and then multiplying that total by the MSCF as follows: Facility MRA = ((Work RVU × Work GPCI) + (Transitioned Facility PE RVU × PE GPCI) + (MP RVU × MP GPCI)) × MSCF.

(4) For anesthesiology services, the MRA shall be calculated by adding the Time Units and Base Units and multiplying that sum by the MSCF: MRA = (Time Units + Base Units) × MSCF.

(5) In calculating the MRA, the following MSCFs apply:

(a) For anesthesiology services, the MSCF is $19.39;

(b) For orthopedic and neurological surgical procedures, MSCF is $53.77; and

(c) For all other medical services and treatment, except as otherwise provided, the MSCF is $40.70.

F. Ambulatory Surgical Centers.

(1) For medical services and treatment provided at an ASC between September 1, 2004, and January 31, 2006, the MRA is calculated by multiplying the CMS 2004 ASC group payment rate by 109 percent.

(2) For medical services and treatment provided at an ASC between February 1, 2006, and March 24, 2008, the MRA is calculated by multiplying the 2004 CMS ASC group payment rate by 125 percent.

(3) For medical services and treatment provided at an ASC on, or after, March 24, 2008, the MRA is calculated by multiplying the current calendar year ASC MRR by 125 percent.

G. MSCF Annual Adjustment.

(1) Beginning January 1, 2009, an adjustment shall be made to the prior year's MSCFs and percentage multiplier (for ASCs).

(2) The MSCFs for the following year shall be calculated by multiplying the MSCFs in effect on November 1 of the current year by the percentage change in the first quarter MEI of the current year, as published on November 1 of the current year, and adding that amount to the current year's MSCFs.

(3) The percentage multiplier for the following year shall be calculated by multiplying the percentage multiplier in effect on November 1 of the current year by the percentage change in the first quarter MEI of the current year, as published on November 1 of the current year, and adding that amount to the current year's percentage multiplier.

(4) The resulting figures shall be utilized as the new MSCF and percentage multiplier for the following year for the purpose of calculating the MRA under §§E and F of this regulation.

(5) The Commission shall post the new MSCFs and percentage multiplier on its website by December 1.

(6) The resulting new MSCFs and percentage multiplier shall be effective January 1 of the following year.

(7) The Commission shall review the annual adjustment process every 5 years to assure that reimbursement rates are neither inadequate nor excessive.

.06 Reimbursement Procedures.

A. To obtain reimbursement under this chapter, an authorized provider shall:

(1) Complete Form CMS-1500 in accordance with the written instructions posted on the Commission's website; and

(2) Within the time provided in §H of this regulation, submit to the employer or insurer the completed Form CMS-1500, which shall include:

(a) An itemized list of each service;

(b) The diagnosis relative to each service;

(c) The medical records related to the service being billed;

(d) The appropriate CPT/HCPCS code with CPT modifiers, if any, for each service;

(e) The date of each service;

(f) The specific fee charged for each service;

(g) The tax ID number of the provider;

(h) The professional license number of the provider; and

(i) The National Provider Identifier (NPI) of the provider.

B. Modifiers.

(1) Modifying circumstances may be identified by use of the relevant CPT modifier in effect when the medical service or treatment was provided.

(2) The identification of modifying circumstances does not imply or guarantee that a provider will receive reimbursement as billed.

C. Time for Reimbursement. Reimbursement by the employer or insurer shall be made within 45 days of the date on which the Form CMS-1500 was received by the employer or insurer, unless the claim for treatment or services is denied in full or in part under §G of this regulation.

D. Untimely Reimbursement. If an employer or insurer does not pay the fee calculated under this chapter or file a notice of denial of reimbursement, within 45 days of receipt of the CMS-1500, the Commission may assess a fine against the employer or its insurer, and award interest to the provider in accordance with Labor and Employment Article, §§9-663 and 9-664, Annotated Code of Maryland, and COMAR 14.09.06.02.

E. Denial of Reimbursement.

(1) If an employer or insurer denies, in full or in part, a claim for treatment or services, the employer or insurer shall:

(a) Notify the provider of the reasons for the denial in writing; and

.07 Medical Records.

A. Medical records are the basis for determining whether a particular treatment or service is medically necessary and, therefore, reimbursable.

B. Each health care provider is responsible for creating and maintaining legible medical records documenting the employee's course of treatment.

C. Employee medical records shall include the:

(1) History of the patient;

(2) Results of a physical examination performed in conformity with the standard of practice of similar health care providers, with similar training, in the same or similar communities;

(3) Progress, clinical, or office notes that reflect:

(a) Subjective patient complaints;

(b) Objective findings of the provider;

(c) Assessment of the presenting problem;

(d) Any plan or plans of care or recommendations for treatment; and

(e) Updated assessments of patient's medical status and response to therapy;

(4) Copies of lab, x-ray, or other diagnostic tests, if any, that reflect the current progress of the patient and response to therapy; and

(5) Hospital inpatient and outpatient records, if any, including:

(a) Operation reports;

(b) Test results;

(c) Consultation reports;

(d) Discharge summaries; and

(e) Other dictated reports.

D. Writing, Maintaining, and Submitting Medical Records.

(1) Employee medical records shall be submitted to the employer or insurer, or, upon request, to the Commission.

(2) The cost of maintaining medical records is included in the treatment and service fees established by the Official Maryland Workers' Compensation Medical Fee Guide (1995) and this chapter. A provider may not submit a separate fee for writing or maintaining medical records.

(3) Additional Medical Report Fees.

Exhibit 7-HB-1289 Fiscal policy note Medical Malpr

Uploaded by: arthur flax

Position: FAV

Department of Legislative Services

Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1289 (Delegate McComas)
Health and Government Operations

State Board of Social Work Examiners - Practice Social Work - Definition and Scope of Authority

This bill alters the definition of "practice social work" to (1) clarify the scope of practice for all social workers in the State and (2) codify existing duties for a licensed certified social worker-clinical (LCSW-C). Notwithstanding any other provision of law, the Board of Social Work Examiners (BSWE) may adopt regulations regarding requirements for engagement in acts of social work that are not specifically authorized under the Maryland Social Workers Practice Act but are otherwise authorized by statute or regulations and may (1) be performed under any condition authorized by BSWE; (2) require education and clinical experience in addition to the requirements of the Social Workers Practice Act; and (3) require board certification.

Fiscal Summary

State Effect: As the bill is generally clarifying in nature, it does not directly affect governmental finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary/Current Law: Generally, an individual must be licensed by BSWE to practice social work in the State. In Maryland, there are four social work license categories, distinguished by specific education and/or training requirements, including: licensed

bachelor social worker; licensed master social worker; licensed certified social worker (no longer issued, but renewed); and LCSW-C.

Under current law, BSWE has specified powers and duties, including to (1) adopt rules and regulations; (2) adopt a code of ethics; (3) adopt an official seal; (4) hold hearings and keep records and minutes necessary for the orderly conduct of business; (5) issue a list of all currently licensed social workers and social workers disciplined by the board in the past year; and (6) investigate an alleged violation of the Social Workers Practice Act.

Practice Social Work for All Social Work Licensees

Under current law, "practice social work" means to apply the theories, knowledge, procedures, methods, or ethics derived from receiving a baccalaureate or master's degree from a program in social work that is accredited by or a candidate for accreditation by the Council on Social Work Education, or an equivalent organization, to restore or enhance social functioning of individuals, couples, families, groups, organizations, or communities through assessment; planning; intervention; evaluation of intervention plans; case management; information and referral; counseling that does not include diagnosis or treatment of behavioral health disorders; advocacy; consultation; education; research; community organization; development, implementation, and administration of policies, programs, and activities; or supervision of other social workers as set forth in regulations.

The bill specifies that "practice social work" through assessment includes through the administration and interpretation of tests within the licensee's scope of practice as determined by the licensee's training and experience.

The bill also expands the definition of "practice social work" to include biopsychological treatment that systemically considers biological, psychological, and social factors and their complex interactions as existing along a continuum of natural systems in order to understand health, illness, health care delivery, and environmental factors.

Practice Social Work for Licensed Certified Social Workers-clinical

Under current law, for an individual licensed as an LCSW-C, "practice social work" also includes (1) supervision of other social workers; (2) 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; (3) petitioning for emergency evaluation; and (4) the provision of psychotherapy.

The bill expands the definition of "practice social work" for an individual licensed as an LCSW-C to include:

- authorizing sick leave in accordance with the State Personnel and Pensions Article;
- certifying involuntary admission in accordance with the Health-General Article;
- certifying competency in accordance with the Estates and Trusts Article;
- determining eligibility for the Temporary Disability Assistance Program (TDAP);
- determining eligibility for Maryland Transportation Authority (MTA) Mobility;
- acting as a health care provider for purposes of health care malpractice claims under the Courts Article; and
- acting as an authorized provider for purposes of workers' compensation and receiving reimbursement.

Sick Leave

Section 9-504 of the State Personnel and Pensions Article specifies that a State employee who uses sick leave for five or more consecutive workdays is prohibited from receiving sick leave pay unless the employee provides an original certificate of illness or disability, which must be signed by a medical doctor, chiropractor, clinical psychologist, dentist, LCSW-C, nurse midwife, nurse practitioner, oral surgeon, optometrist, physical therapist, podiatrist, accredited Christian Science practitioner, or health care provider as defined by the federal Family Medical Leave Act.

Involuntary Admission

Section 10-616 of the Health-General Article requires that a certificate for involuntary admission of an individual must be based on the personal examination of the physician, psychologist, psychiatric nurse practitioner, LCSW-C, or licensed clinical professional counselor who signs the certificate. In this instance, "involuntary admission" includes every admission of a minor to a State facility unless the admission is a voluntary admission.

Guardianship of a Disabled Person

Section 13-705 of the Estates and Trusts Article establishes that, on petition and after any notice or hearing, a court may appoint a guardian of the person of a disabled person. A petition for guardianship of a disabled person must include signed and verified certificates of competency from the following health care professionals who have examined or evaluated the disabled person: (1) two licensed physicians; or (2) one licensed physician and either one licensed psychologist, one LCSW-C, or one nurse practitioner. An examination or evaluation by at least one of these health care professionals must occur within 21 days before filing a petition for guardianship of a disabled person.

Temporary Disability Assistance Program

TDAP is a State-funded program that provides cash benefits to low-income disabled adults (without dependent children) who are ineligible for other categories of assistance through a period of short-term disability. Eligibility requirements include completion of a medical report signed by a health care provider. The health care provider must have independent diagnostic authority and be authorized to evaluate, determine impairment, and independently treat medical, mental, and/or emotional disorders and conditions, and provide services according to the requirements of the appropriate health occupations board.

Maryland Transportation Authority Mobility

MTA Mobility is MTA's paratransit service available to people, who because of a disability, are functionally unable to get to a bus stop, wait unassisted at a stop or station, or board or ride a bus or train by themselves. To qualify for MTA Mobility, applicants must have an impairment that prevents them from independently accessing, boarding, disembarking, or riding other MTA services. Specified providers, including an LCSW-C, with knowledge of an individual's disability or health condition must fill out a portion of the individual's application for MTA Mobility.

Health Care Malpractice Claims

Under current law, a health care provider includes an LCSW-C for purposes of medical malpractice claims in the State. Except for a claim seeking damages within the limit of the District Court's concurrent civil jurisdiction ($30,000 or less), a claim for medical injury against a health care provider is required to be filed with the Director of the Health Care Alternative Dispute Resolution Office (although the parties may elect mutually or unilaterally to waive arbitration of the claim).

Workers' Compensation

Generally, each employer in the State must secure workers' compensation for all covered employees by maintaining insurance with an authorized insurer or, in limited circumstances, through self-insurance. Under Maryland regulations (COMAR 14.09.08), an LCSW-C is considered an "authorized provider" for workers' compensation reimbursement purposes.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Department of Health; Department of Human Services; Department of Legislative Services

Fiscal Note History: First Reader - February 20, 2024
js/jc

Analysis by: Amberly E. Holcomb

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

Exhibit-8- CMS Final Rule Social Work Physical Ill

Uploaded by: arthur flax

Position: FAV

given that there are so many behavioral health ramifications of physical health illness.

We are also finalizing an increase in the valuation for timed behavioral health services under the PFS. Specifically, we are finalizing our proposal to apply an adjustment to the work RVUs for psychotherapy codes payable under the PFS, which we are implementing over a four-year transition. In response to public comments, we are also finalizing the application of this adjustment to psychotherapy codes that are billed with an E/M visit and to the HBAI codes. We believe that these finalized changes will begin to address distortions that have occurred in valuing time-based behavioral health services over many years.

Section 4121(b) of the CAA, 2023 also established that the hospice interdisciplinary group is required to include at least one social worker, MFT, or MHC. Therefore, CMS is finalizing its proposal to modify the requirements for the hospice Conditions of Participation (CoPs) to allow social workers, MHCs or MFTs to serve as members of the interdisciplinary group (IDG) and removing the proposed language requiring that the determination regarding whether a social worker, MFT or MHC serve as a member of the IDG *depending on the preferences and needs of the patient.*

Additionally, Section 4121(b) of the CAA 2023 allows MFTs and MHCs to furnish services in Rural Health Clinics (RHCs) and Federally Qualified Health Centers (FQHCs). CMS is finalizing the requirements for the RHC and FQHC Conditions for Certification and Conditions for Coverage (CfCs) to allow MFTs and MHCs to provide additional behavioral health services in these facilities. CMS is also finalizing, as proposed, revising the definitions of several health care professionals who are already eligible to provide services at RHCs and FQHCs, including nurse practitioners. The revised definition for nurse practitioners includes the removal of the requirement that they be certified in primary care to provide care in these facilities. CMS believes that removing this requirement will aid in addressing staffing shortages that healthcare facilities are experiencing in underserved and rural communities by increasing the number of nurse practitioners eligible to provide care in RHCs and FQHCs.

In the proposed rule, we also sought comment on ways we can continue to expand access to behavioral health services and requested

Behavioral Health Services

For CY 2024, we are implementing Section 4121 of the CAA, 2023, which provides for Medicare Part B coverage and payment under the Medicare Physician Fee Schedule for the services of marriage and family therapists (MFTs) and mental health counselors (MHCs) when billed by these professionals. Additionally, we are finalizing our proposal to allow addiction counselors or drug and alcohol counselors who meet the applicable requirements to be an MHC to enroll in Medicare as MHCs. MFTs and MHCs will be able to begin submitting Medicare enrollment applications after the CY 2024 Physician Fee Schedule final rule is issued, and they will be able to bill Medicare for services starting January 1, 2024, consistent with statute. (See link here for enrollment information). We are also making corresponding changes to Behavioral Health Integration codes to allow MFTs and MHCs to bill for these services.

We are also implementing Section 4123 of the CAA, 2023, which requires the Secretary to establish new HCPCS codes under the PFS for psychotherapy for crisis services that are furnished in an applicable site of service (any place of service at which the non-facility rate for psychotherapy for crisis services applies, other than the office setting, including the home or a mobile unit) furnished on or after January 1, 2024. Section 4123 of the CAA, 2023 specifies that the payment amount for psychotherapy for crisis services shall be equal to 150% of the fee schedule amount for non-facility sites of service for each year for the services identified (as of January 1, 2022) by HCPCS codes 90839 (*Psychotherapy for crisis; first 60 minutes*) and 90840 (*Psychotherapy for crisis; each additional 30 minutes — List separately in addition to code for primary service*), and any succeeding codes.

Additionally, we are finalizing our proposal to allow the Health Behavior Assessment and Intervention (HBAI) services described by CPT codes 96156, 96158, 96159, 96164, 96165, 96167, and 96168, and any successor codes, to be billed by clinical social workers, MFTs, and MHCs, in addition to clinical psychologists. Health Behavior Assessment and Intervention codes are used to identify the psychological, behavioral, emotional, cognitive, and social factors included in the treatment of physical health problems. Allowing a wider range of practitioner types to furnish these services will allow for better integration of physical and behavioral health care, particularly

SB0931_FAV_GWSCSW_Workers' Comp. - Rehabilition Pr
Uploaded by: Christine Krone
Position: FAV

Greater Washington Society for Clinical Social Work

TO: The Honorable Pam Beidle, Chair
Members, Senate Finance Committee
The Honorable Katherine Klausmeier

FROM: Judith Gallant, LCSW-C, Director, GWSCSW Legislation and Advocacy

DATE: March 5, 2024

RE: **SUPPORT** – Senate Bill 931 – *Workers' Compensation – Rehabilitation Practitioners – Licensed Social Workers*

The Greater Washington Society for Clinical Social Work (GWSCSW) was established in 1975 to promote and advance the specialization of clinical practice within the social work profession. Through our lobbying, education, community building, and social justice activities, we affirm our commitment to the needs of those in our profession, their clients, and the community at large. On behalf of GWSCSW, we **support** Senate Bill 931.

Senate Bill 931 expands the pool of professionals who can provide vocational rehabilitation services under Maryland's Workers' Compensation program, particularly for cases involving behavioral or mental disorders. The bill broadens the definition of a rehabilitation practitioner to include licensed social workers as having sufficient training and experience to provide vocational rehabilitation services. Currently, rehabilitation practitioners are limited to (1) a nurse certified by the State Board of Nursing as a nurse case manager; (2) a rehabilitation counselor; and (3) a vocational evaluator. As the highest level of licensure for social workers in Maryland, LCSW-Cs (Licensed Certified Social Worker-Clinical) meet or exceed all the qualifications and experience requirements to be able to register as rehabilitation practitioners in workers' compensation claims. For these reasons GWSCSW supports Senate Bill 931. We urge a favorable vote.

For more information call:
Christine K. Krone
Pamela Metz Kasemeyer
Danna L. Kauffman
410-244-7000

SB931 Workers' Compensation - Rehabilitation Pract

Uploaded by: Dean Judy Postmus

Position: FAV

UNIVERSITY of MARYLAND
SCHOOL OF SOCIAL WORK

Judy L. Postmus, Ph.D., ACSW
Dean and Professor

525 West Redwood Street
Baltimore, MD 21201
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Written Testimony in Support of SB 931
Workers' Compensation - Rehabilitation Practitioners - Licensed Social Workers

Thank you, Chairman Senator Beidle, Vice Chair Senator Klausmeier, and members of the Finance Committee for addressing this critical issue and therefore recognizing the vital role of social work. The School of Social Work appreciates the opportunity to provide testimony in favor of SB 931. This bill would include social workers as a "*rehabilitation practitioner*" 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 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.) 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.

> Here is a description of the minimum requirements: (1) earn a master's degree from an accredited program; (2) successfully complete two field placement practicums/professional internships – two full-days their foundation year of the master's program and three full-days in their advanced year; (3) practice social work competencies in both 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 SB 931.

Respectfully submitted by

Judy L. Postmus, Ph.D., ACSW, Dean & Professor

NASW Maryland - 2024 SB 931 FWA - Workers’ Comp-Re

Uploaded by: Karessa Proctor

Position: FWA

5750 Executive Drive, Suite 100, Baltimore, MD 21228
410.788.1066 » nasw-md.org

NASW MARYLAND CHAPTER
National Association of Social Workers

Finance Committee

March 5, 2024

Senate Bill 931

Workers' Compensation – Rehabilitation Practitioners – Licensed Social Workers

*****Support with Amendments*****

The National Association of Social Workers-Maryland Chapter is a professional organization representing over 3,000 social workers statewide. We are submitting this letter of Support with Amendments on Senate Bill 931.

This bill authorizes certain licensed social workers to register as a rehabilitation practitioner; and authorizes a licensed certified social worker-clinical to provide evaluation services for workers' compensation claims related to permanent impairments involving a behavioral or mental disorder.

We believe that these authorizations are appropriate and in keeping with the scope of practice for licensed social workers and licensed certified social workers-clinical. Therefore, we support the basic premise of this bill.

However, we are aware that the Board of Social Work Examiners (BSWE) does not certify licensees for specific kinds of practice and does not have any desire to do so. We understand that there is a suggested amendment to remove references in the bill that the BSWE certify licensed social workers as rehabilitation practitioners. With that amendment, we would give the bill our full support.

We ask that you support SB 931 with this amendment.

Respectfully submitted,

Karessa Proctor, BSW, MSW
Executive Director, NASW-MD

SB931 Sponsor Amendment.pdf
Uploaded by: Katherine Klausmeier
Position: FWA

SB0931/473120/1

AMENDMENTS PREPARED BY THE DEPT. OF LEGISLATIVE SERVICES

04 MAR 24
11:20:57

BY: Senator Klausmeier
(To be offered in the Finance Committee)

AMENDMENTS TO SENATE BILL 931
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 4, strike "certain"; and in line 16, strike "9–6A–04(c),".

AMENDMENT NO. 2

On page 2, strike beginning with "**WHO**" in line 3 down through "**EXAMINERS**" in line 7; strike in their entirety lines 12 through 17, inclusive; strike in their entirety lines 19 through 25, inclusive; in lines 26 and 28, in each instance, strike the brackets; and in the same lines, strike "**(B)**" and "**(C)**", respectively.

On page 3, in lines 7, 17, 19, 22, and 27, in each instance, strike the brackets; in lines 7 and 17, strike "**(D)**" and "**(E)**", respectively; in line 19, strike "**(C)**"; in the same line, strike "**(D)**"; in line 22, strike "**(C)(1)**"; and in line 27, strike "**(D)(1)**".

SB 931 Chesapeake-IWIF Testimony.pdf
Uploaded by: Lyndsey Meninger
Position: UNF

Senate Finance Committee
March 5, 2024

Testimony of Chesapeake Employers' Insurance Company and Injured Workers' Insurance Fund in Opposition to Senate Bill 931

Senate Bill 931 proposes to authorize a licensed social worker 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.

Although there is no concern with a licensed social worker to register as a rehabilitation practitioner in order to provide vocational rehabilitation services, there is great concern for a licensed certified social worker–clinical to provide evaluation services that are presently only provided for by physicians, psychologists, and psychiatrists.

Currently, under Labor and Employment, § 9-721, only a physician or psychologist provides permanent impairment ratings for purposes of workers' compensation evaluations (COMAR 14.09.09.03 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' Insurance and Injured Workers' Insurance Fund respectfully oppose Senate Bill 931 as to the licensed certified social worker–clinical providing evaluation services.

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

Lyndsey Beidle Meninger, Esq.
Vice President of Legal Services
Chesapeake Employers Insurance Company/IWIF
410-494-2057
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SB 931WC Licensed Social Worker 03052024 UNF FIN

Uploaded by: Nancy Egan

Position: UNF

Testimony of

American Property Casualty Insurance Association (APCIA)

Senate Finance Committee

Senate Bill 931 - Workers' Compensation – Rehabilitation Practitioners – Licensed Social Workers

Marvh 5, 2024

Unfavorable

The American Property Casualty Insurance Association (APCIA) is a national trade organization whose members write approximately 67% of the U.S. property and casualty insurance market, including 89% percent of Maryland's workers' compensation market. APCIA appreciates the opportunity to provide written comments in opposition to Senate Bill 931.

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 LCSW providing rehabilitation services under the workers' compensation law.

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." Similarly, West Virginia Workers' Compensation Rule §85-20-12 reserves all clinical activity relating to the determination of compensability, treatment, evaluation and permanent impairment rating of claimants for work-related psychiatric disabilities to psychologists and psychiatrists.

For these reasons, APCIA urges the Committee to provide an unfavorable report on Senate Bill 931.

Nancy J. Egan,

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

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

9 - SB 931 - BSWE - LOC - FIN.pdf
Uploaded by: State of Maryland (MD)
Position: UNF

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

Maryland Board of Social Work Examiners
4201 Patterson Ave
Baltimore, MD 21215

March 5, 2024

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

Re: SB 931 – Workers' Compensation – Rehabilitation Practitioners – Licensed Social Workers

Dear Chair Beidle and Committee Members:

The State Board of Social Worker Examiners (the "Board") is writing this Letter of Concern for SB 931. While we support the expansion of services that a Licensed Clinical Social Worker or LCSW-C can provide, there is concern with the language on page 2, line 19: "**(A) To qualify for registration, a licensed social workers shall be: (1) certified as such by the state Board of Social Work Examiners; and (2) certified by the state Board of Social Work Examiners as having sufficient training and experience to provide vocational rehabilitation services."**

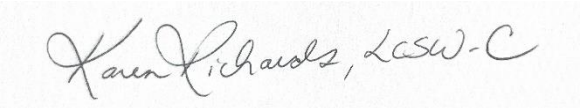
Is this bill asking the Board to certify a Social Worker as a "Vocational Rehabilitation Specialist?" Or is this purely intended to add language that defines the type of work performed by a rehabilitation practitioner? The bill is unclear. If passed, a concern of the Board is what impact this will have on our Board. Will the Board be burdened with determining which licensees have the "sufficient training and experience?"

Again, we understand that this will open additional career opportunities in the rehabilitation field for Licensed Clinical Social Workers. However, this could open additional work for an already overtaxed Board staff.

For these reasons, the Board respectfully requests that the Committee vote unfavorably on SB 931.

Thank you for your consideration of this testimony. For more information, please contact me at 410-740-4722 or at karen.richards2@maryland.gov.

Respectfully,



Karen Richards, LCSW-C
Executive Director

The opinion of the Board expressed in this document do not necessarily reflect that of the Department of Health or the Administration.

SB 931 - Oppose - MPS WPS.pdf
Uploaded by: Thomas Tompsett
Position: UNF

March 4, 2024

The Honorable Pamela Beidle
Senate Finance Committee
Miller Senate Office Building – 3 East
Annapolis, MD 21401

RE: Oppose – Senate Bill 931: Workers' Compensation – Rehabilitation Practitioners – Licensed Social Workers

Dear Chair Beidle 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/WPS represent over 1000 psychiatrists and physicians currently in psychiatric training.

MPS/WPS oppose Senate Bill 931: Workers' Compensation – Rehabilitation Practitioners – Licensed Social Workers (SB 931). Currently, the only professions that can perform mental illness-based worker's comp cases are physicians/psychiatrists and psychologists. Generally, in order to do this, a pshysician or psychologist must first determine whether or not the evaluee has reached "maximum medical improvement" (MMI). Per the Department of Labor, MMI "is when the covered illness is stabilized and is unlikely to improve with or without additional medical treatment." Thus, under SB 931, a social worker with exponentially less mental health education, residency, and required patient care hours through training would be assessing the adequacy of a physician's or psychologist's care.

MPS/WPS believe that providing evaluation services for workers' compensation claims related to permanent impairments involving behavioral or mental disorders is an ill advised expansion of a social worker's scope of practice for they lack the specific medical training and expertise in mental health. The quality and accuracy of evaluations performed by licensed social workers who do not have the same level of training and experience as physicians or psychologists in diagnosing and assessing mental health conditions may lead to incorrect diagnoses or inadequate treatment recommendations.

Therefore, for all the reasons above, MPS/WPS ask the committee for an unfavorable report on SB 931. If you have any questions regarding 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